

# School Discipline for Democratic Citizenship Education: Extending Restorative Practices

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A thesis submitted in partial fulfilment of the requirements for the Degree of  
Doctor of Philosophy in Education at the University of Canterbury

2017

## Table of Contents

|  |           |
|--|-----------|
| <b>Acknowledgements .....</b>  | <b>1</b>  |
| <b>Abstract .....</b>  | <b>2</b>  |
| <b>Abbreviations .....</b>   | <b>3</b>  |
| <b>Introduction .....</b>  | <b>4</b>  |
| A note on the use of examples .....  | 9         |
| <br>   |           |
| <b>Chapter 1: Purposes and understandings of ‘school discipline’ .....</b>                                       | <b>10</b> |
| Differing conceptions of discipline and its purposes .....   | 10        |
| Discipline and classroom management, and their justifications .....  | 19        |
| Common conceptions of discipline and classroom management .....  | 26        |
| <br>   |           |
| <b>Chapter 2: School discipline systems in the review literature .....</b>                                       | <b>31</b> |
| Attention to the broader goals of discipline .....   | 32        |
| Management systems that achieve goals beyond the maintenance of order .....                                      | 43        |
| Classroom management systems and their suitability for meeting the broader goals of good school discipline ..... | 45        |
| Community discipline for social education .....  | 51        |
| Social contract theory and the justification of authority .....  | 53        |
| <br>   |           |
| <b>Chapter 3: Restorative discipline and Positive Behaviour for Learning .....</b>                               | <b>57</b> |
| Restorative discipline .....   | 57        |
| Positive Behaviour for Learning .....  | 65        |
| A proposed extension to restorative discipline practices .....   | 76        |

## **Chapter 4: Rationality, deliberative democracy, and citizenship education..... 80**

|  |     |
|--|-----|
| Rationality in the justification of political authority .....                                    | 81  |
| Rationality .....  | 81  |
| Rationality as distinct from reason.....   | 84  |
| The value of rationality in the intersubjective space .....                                      | 86  |
| Practical constraints .....  | 88  |
| Reasonable pluralism .....   | 90  |
| Just political authority as superordinate to morality in a secular and pluralist democracy ..... | 91  |
| Social institutions and their role .....   | 92  |
| Democracy and public reason .....  | 94  |
| Impartial reasoning, public reason, and public justification .....                               | 94  |
| Deliberative democracy.....  | 97  |
| Citizenship education .....  | 104 |

## **Chapter 5: Social contract theory in restorative discipline ..... 109**

|  |     |
|--|-----|
| The suitability of social contract theory for exploring fair justification in conflict resolution in schools ..... | 109 |
| Models of social contract theory .....   | 113 |
| Contractarianism or contractualism?.....   | 118 |
| Application and practicalities .....   | 127 |
| Questioning.....   | 127 |
| Training .....   | 130 |
| Opportunities .....  | 131 |

## **Chapter 6: Childhood, rights, and parental preference ..... 136**

Child, adult, parent, pupil, and teacher: important labels, or a distraction from considering capabilities? ..... 136

The concept of childhood ..... 136

Adulthood, legal status, and the problems of labelling ..... 139

Teachers' authority and its limited scope ..... 141

Pupils, parents, and the inability to opt out of particular compulsions ..... 144

Children's rights ..... 148

Will theories of rights ..... 151

Interest theories of rights ..... 151

Special interest and faith schools ..... 155

## **Chapter 7: Kohlberg and cognitive moral development ..... 162**

The stage theory of moral development..... 163

Developments and refinements of Kohlberg's model ..... 166

Judgement of an individual's level ..... 172

Domain theory ..... 174

'Just Community' schools in comparison with restorative communities ..... 176

Criticisms, and their lesser relevance for restorative discipline ..... 181

The practicality of a Kohlbergian framework for social contract reasoning in restorative discipline ..... 187

|  |                |
|--|----------------|
| <b>Chapter 8: Care, empathy, and their relationship to justice in school discipline .....</b>                    | <b>193</b>     |
| Care theory and its challenge to cognitive moral development .....   | 194            |
| The coexistence of care and the rational, given a distinction between morality and justice<br>.....              | 200            |
| Moral motivation and the third goal of good school discipline .....  | 202            |
| Moral sentimentalism, empathy, and sympathy .....  | 204            |
| The benefit of multiple approaches to moral education .....  | 210            |
| Different approaches to the reconciliation of justice and care in the context of<br>deliberative democracy ..... | 216            |
| <br><b>Conclusions.....</b>  | <br><b>224</b> |
| <br><b>References.....</b>   | <br><b>231</b> |

## **Acknowledgements**

I would like to thank my supervisors Professor Peter Roberts and Adjunct Associate Professor John Freeman-Moir for their care and expert evaluation of my work, and my family — especially Peter, Ilona, Robert, and Jenna-Lee — for their unremitting support.

I am also grateful to the University of Canterbury for the award of a UC Doctoral Scholarship and supplementary travel and conference grants, without which I would not have been able to return to full-time academic research.

Finally, I would like to thank all the students and staff with whom I have worked and discussed ideas in both the College of Education and Philosophy department, especially John Calvert, Bernadette Farrell, Hanna Gunn, Lance McBride, Christopher McMaster, Arichantheran Mvsivagnanam, Abdullah Mohammed Nawi, John Richardson, Connor Robinson-Arnull, Catherine Solomon, Louise Tapper, and Christoph Teschers.

To everyone who has offered advice, support and encouragement along the way: thank you. Thank you, so very much.

## **Abstract**

This thesis proposes an extension to restorative discipline practices in order to provide better education for adult democratic citizenship. It argues that school discipline is subject to widespread misunderstanding, and that many classroom management systems fail to attend to a complete conception of its goals. Restorative discipline is a notable exception, and is currently being implemented under the policy of Positive Behaviour for Learning in New Zealand. Attention to the rational consideration of fairness, as well as the restoration of relationships that have been harmed, is argued to be educative about the justification of authority. Such education is a commonly neglected goal of good school discipline, as many classroom management systems seek to maintain order without helping pupils to understand why it is justified by any means other than the declaration of the person perceived to have power.

Learning about why certain restrictions on one's behaviour are fair is educative about the justification of social institutions in a democracy. Students who better understand how the authority of state institutions is grounded in more than the will of those in power are better prepared for engagement with adult democratic life. The consideration of fair resolutions to conflicts when two parties have fundamental disagreements over facts or values can contribute to this, and this can be discussed in restorative conversations in addition to considering what harm has been done. This thesis proposes greater attention in restorative conversations to asking what might be fair in addition to how a relationship might be repaired.

This thesis draws not just on restorative theory, but also on Gutmann and Thompson's deliberative model of democracy and conceptions of justice as fairness in the tradition of Rawls. It proposes social contract theory as a means of exploring fairness in the classroom, with particular attention to Gauthier's contractarianism and Scanlon's contractualism, and makes comparison and finds contrast with Kohlberg's education for cognitive moral development.

## **Abbreviations**

|       |   |
|-------|---|
| PB4L  | Positive Behaviour for Learning                       |
| RD    | Restorative discipline                                |
| RP    | Restorative practice                                  |
| SCT   | Social contract theory                                |
| UNCRC | United Nations Convention on the Rights of the Child  |
| UNDRC | United Nations Declaration of the Rights of the Child |



## Introduction

This thesis makes the claim that the concept of school discipline is subject to substantial and widespread misunderstanding. It claims that the vast majority of the literature on classroom management fails to attend to educational goals intrinsic to good discipline, and that doing so would better prepare students for adult democratic citizenship. After identifying which aspects of school discipline are often neglected, this thesis addresses how they could be attended to, and identifies a pilot education policy in New Zealand that provides a significant opportunity for meeting this goal.

This thesis proposes an extension to the education policy of Positive Behaviour for Learning in New Zealand. It mounts a philosophical defence of the desirability of the changes proposed, and then suggests a practical means by which they could be achieved. It argues that making such changes not only leads to better school discipline, but that good school discipline so construed is an important component of democratic citizenship education.

The thesis begins with a conceptual analysis of school discipline. It evaluates different understandings of the term and how it is often confused with classroom management, to the detriment of a good understanding of what good school discipline should entail. Chapter one concludes by summarizing good school discipline as consisting of three goals: the maintenance of good order to enable learning, education about just authority, and developing the disposition to act in accordance with such authority. The better meeting of these goals drives the analysis and argument of this thesis.

Chapter two considers how the literature on school discipline and classroom management almost universally fails to draw attention to goals of school discipline other than good classroom management, and that when it does so it presents as optional extras aspects which should be components of equal importance. The chapter gives close attention to Lewis' *The discipline dilemma* (1997) as a work that recognises and highlights the problems the school discipline literature has in attending to a full conception of its goals, but one that still does not take the step of demanding equal attention to aspects of discipline that are commonly devolved to the judgement of individual teachers, when they should rather be considered necessary components.

The chapter goes on to examine which classroom management systems are well-placed to meet the broader goals of good school discipline, and concludes that restorative practices are pre-eminently well-placed. It concludes by outlining the shape of the argument the next three chapters will follow: of the social education restorative discipline already provides, and a means by which it could still be improved. The core proposal made is that restorative discipline primarily attends to empathy and the repair of emotional harm, when it would better aid the development of good school discipline also to give more attention to the rational consideration of what outcomes might be fair.

Chapter three explores the nature of restorative discipline in detail, both theoretically and in its implementation. It is a relatively recent innovation, having been introduced to schools less than twenty years ago, and considered mainstream for still fewer. The benefits of this approach illustrate that there is scope for genuine progress in the development of discipline systems, in contrast with the slight repackaging of existing systems presented as radical change (as is apparent in some of the works considered in the previous chapter). This chapter then evaluates how New Zealand is currently implementing a policy entitled 'Positive Behaviour for Learning' which involves the institution of restorative practices as part of its programme. It concludes that this policy looks well-matched to meeting what theorists of restorative discipline consider vital components of restorative implementation, and then makes the proposal for attention to the rational consideration of fairness in restorative discipline as mentioned above.

Chapter four performs much of the theoretical work necessary to justify the claim that this attention to fairness is desirable for the better achievement of the goals of school discipline, rather than being an alternative approach that only those with a limited set of theoretical commitments would find desirable. It requires only the acceptance of the value of rationality, of the existing compulsions of certain nation-states, and the conceptual analysis of discipline as made in chapter one to render the proposed attention to fairness necessarily desirable for better education in a pluralist democracy. To do this, the chapter devotes significant attention to the nature and value of rationality, the distinction between morality and fair political authority, and the role of public institutions. It further progresses to defend how such improved school discipline comprises better education for democratic citizenship

(by the deliberative formulation of Gutmann and Thompson: 1996) and that this comprises good citizenship education.

Following the establishment of the desirability of better rational education about fairness, chapter five introduces a family of models which can be used to better explain how conflict resolutions are justified in the restorative discussion of disciplinary situations. Social contract theories are defended as being a fitting starting point for exploring the rational justification of fair outcomes in a democracy, and more importantly as a simple way in to exploring a complex topic that is accessible to secondary-aged children, for it is to mainstream secondary schools that this argument is directed. Such theories can be introduced simply and explored to a level of depth that makes a restorative solution appear reasonably justified — rather than implemented by the personal authority of the teacher, which would undermine a central principle of restorative practices. It presents how models exist that can suit students with different levels of concern for the experiences of others, and work to develop students' appreciation of the value of fairness from their different starting points. Equally importantly, it emphasises how the knowledge needed to frame such questioning and educational discussions is not extensive; the training required for effective restorative discipline is something to which the current policy under discussion has already committed, and to which the rational consideration of social contracts could be added fairly simply.

Having made an argument for the philosophical desirability and practicality of developing the incoming model of restorative discipline, Chapters six to eight defend it against three lines of attack: from the status or rights of children, their cognitive capabilities, and the privileging of the rational over care-based forms of engagement.

Chapter six addresses the claim of parents, teachers, and other adults to be able to gainsay a child's right to education about principles of democracy, secularity, and justice when these principles conflict with their own personal views. It examines the concept of childhood, and the legal and philosophical grounds for the authority of parents, teachers, and other adults over children. It identifies significant problems with a philosophical distinction between these groups, and argues that a legal distinction is not a normative argument. The chapter fits this argument to common claims about children's rights, and describes how faith schools

(and other schools which might privilege an adult's beliefs) are not problematic for this argument in principle, but that there are certain conditions of equality that need to be met for the equal respect of young citizens and their potential development.

Chapter seven elaborates on the issue raised in chapter five of the differing development of various children's abilities to recognise the value of the interests and perspectives of others. It revisits Kohlberg's seminal work on cognitive moral development and argues how both his theories and experimental data support the argument of this thesis. His model of cognitive moral development can help teachers judge how to pitch restorative discussions of fairness at levels that are accessible and developmental for particular students, and his data suggest that both pupils and teachers have the capability to benefit from this proposal. Elements of Kohlberg's work are sufficiently analogous to the conversations about justice proposed here as to suggest that the progress he identified as resulting from developmental discussions may arise similarly from the discussions of fairness proposed for restorative conversations. Furthermore, the major criticisms and obstacles his 'Just Communities' faced are far less significant issues for discussions taking place as part of restorative discipline in a 'Positive Behaviour for Learning' framework. The chapter concludes by suggesting that the current policy initiative appears to be a more fertile environment for encouraging the development of thinking about fairness than the classrooms of Kohlberg's initial experiments, and that there are additional factors to suggest that any positive developments that result are more likely to be persistent and sustainable.

Chapter eight addresses the challenge from care: the position largely associated with the feminist argument that certain (rational) ways of thinking and relating are privileged in the consideration of morality, when care merits equal or greater attention. It explores the claims of care theories, and then clarifies a distinction between empathy and sympathy — the former being a more emotional, the latter a more cognitive concept — in order to explore how both can contribute not only to moral motivation but also to the disposition to act in accordance with just authority that good school discipline requires. The chapter argues that sentimentalist approaches to morality can coexist alongside rational approaches to justice, and concludes that addressing both in restorative discussions makes an important contribution to good school discipline.

Overall, the thesis makes a substantial initial claim that suggests a small and nuanced change to school discipline policies. This change, however, is rigorously grounded and conceptually significant, and may have a considerable impact on the effectiveness of restorative communities, the quality of critical thinking skills encouraged in students, and their preparedness for adult democratic society. Such a change involves a degree of respect both for that which is rationally justifiable and for other people's differences in belief, qualities which look likely to be of increasing importance in the operation of successful democratic societies.

This is a thesis which begins with a conceptual analysis, and develops from it a suggestion for the extension of a current education policy — an extension that not only works to correct misconceptions about the nature of school discipline, but that also performs democratic citizenship education through classroom management in time which is often considered to have little educational value.

This thesis does not make an explicit claim to one particular theory of learning. How restorative discipline leads to learning is not the focus of the thesis — and may be better addressed in works on standard restorative theory — but rather how a modified restorative discipline better models certain democratic principles and structures. There is an implicit social constructivism underlying much of the thesis, but forging closer ties with one particular theorist would not advance the core arguments, and might take on additional philosophical problems that are not strictly necessary through the adoption of specific positions. Experiencing restorative practices is considered to constitute learning. By involvement with elements of democratic life students become better prepared for adult democratic citizenship, and an argument for practical civics as citizenship education is mounted in chapter four. Pupils in restorative communities conduct their own rational and emotional explorations of how conflicts can be resolved.

In addition to practical engagement with social contracts this thesis also argues for their abstract consideration, and teachers may at times be considered cognitive guides of pupils' learning. Chapter seven builds on Kohlberg, who draws in turn on Piagetian stage theory, and the mental reframing of conflicts is encouraged to consider both whether or not a solution feels caring, and what outcome might be fair. Translating all such elements overtly

into a constructivist framework would be tangential to advancing the core argument of this thesis: that restorative discipline would be improved by greater attention to fairness as well as to empathy.

### **A note on the use of examples**

This thesis makes use of thought experiments to consider situations in which the extended model of restorative practices proposed here may be employed. These situations are simplified and idealised to illustrate the key points under discussion in each example without introducing too many extraneous factors. Such conversations are likely to be significantly more complex in practice.

The use of thought experiments is preferable here to qualitative data analysis not only because of their more direct address of theoretical arguments, but also because of the unsuitability of existing datasets for illustrating the methods described here. Examples in the literature illustrate standard restorative conversations rather than ones with a greater focus on theoretical discussions of fairness such as this thesis proposes. Examples of such extended restorative conversations may become available in the future, especially if this thesis leads in due course to a pilot implementation from which data on their practical outcomes may be gathered.

# **Chapter 1**

## **Purposes and understandings of ‘school discipline’**

This chapter explores the confusion around the concept of ‘school discipline’ and its purpose. It draws a distinction between discipline and classroom management, and argues that good school discipline entails more than the maintenance of classroom order alone. Explaining and justifying the grounds for authority in disciplinary situations can increase engagement and is more socially educative for students than its unexplained imposition. These concepts are then contrasted with understandings of discipline and classroom management held by teachers and the general public, which are sometimes incoherent and can suggest the employment of practices in contradiction with an individual’s wider educational goals. The chapter concludes with three goals it is desirable for school discipline to achieve: the maintenance of good order to enable learning, education about just authority, and developing the disposition to act in accordance with such authority. This informs the critical reading of the literature on school discipline and classroom management methods that follows in chapter two.

### **Differing conceptions of discipline and its purposes**

Discussion of school discipline is complicated by a lack of clarity over what the concept involves. Different professionals’ understandings of what discipline and behaviour management should involve can be contradictory and incomplete. While they are far from a philosophical analysis, dictionary definitions highlight consistent themes and ambiguities in common English usage of the term. A classic English set of definitions might include the following under the uses of ‘discipline’:

- To train by instruction and exercise; drill.
  - To bring to a state of order and obedience by training and control.
  - To punish or penalize in order to train and control; correct; chastise.
- (‘Discipline’, 2016)

The thread of control is clear. None of the definitions has a focus upon the mind of the recipient, or the ability to make active choices. They appear to treat the recipient more as

the object of an action than a participant in a developmental process. These are also all understandings that are enacted from an external locus of power, as apart from 'self-discipline'. Indeed, in teacher conversations, it is all too frequent to hear discipline referred to as something done *to* others, rather than as a collegial endeavour.

When used in partnership with school, as 'school discipline', one might expect a much-reduced set of possible definitions, primarily related to the maintenance of good order in the school or classroom. This is somewhat language specific: native speakers consider the German word 'Disziplin' to have much more focus on the internal quality of self-discipline, highlighting the overlap of these ideas in concepts of classroom and behaviour management (Teschers, C., personal communication, 2013).

Ambiguous terms can lead to different applications of the same concept in different situations. When the goal of discipline in the classroom is unclear it becomes even harder to make progress in debates on the best policies to support it.

There is a confusion of purpose at the heart of the theory and practice of classroom management: does it aim towards responses and behaviours to be trained, consequent ends to be achieved, or some developmentally educative purpose? These are all tied in various ways to different conceptions of discipline. The moral purposes a practitioner may hold for their teaching may be in contradiction with regularly occurring actions they take, or at the very least philosophically inconsistent (Butchart & McEwan, 1998). Classroom management actions can become so routine that this tension is taken for granted, rendering reflective progress more difficult. Such issues are not addressed by practically-focused guides that feature little philosophical content — and many guides aimed at practising teachers fit this description, sacrificing conceptual exposition for clarity and a focus on technique.

Many narratives, particularly guides to 'practical skills', refer to discipline when they mean punishment for enforcement. A selection of these will be considered below. Works which address discipline as a separate concept feature a range of different understandings of what it entails. The following authors are representative of key positions on discipline that are in tension or wholly incompatible with each other. Goodman (2006) writes with a focus on discipline in relation to a structure of school rules. This article is an exemplar of a



philosophical approach to discipline that considers the scope of possible definitions, and yet still focuses primarily on considerations of rules and order to the detriment of other aspects of discipline that this thesis shall highlight. Goodman recognises that different concepts are addressed by the term, and puts forward three justifications given for discipline: that it is part of becoming a good thinker; that it leads to order, which finds justification in its consequent enabling of learning; or that discipline is an independent good in itself. She demonstrates a nuanced understanding of the social effects of classroom management policies, but adopts a practical definition of discipline as related to sanctions to secure submission to rules (with the understanding that this leads to skills and subject knowledge).

This understanding of discipline has a storied history in the philosophy of education. Peters (1976) supported the 'rules' conception, which was fairly typical of the period in which he was writing. Much of Peters' work was focused on the development of the analytic philosophy of education, in which particular attention is given to precision in the understanding of words and concepts. It is understandable, therefore, that his analysis carried considerable weight. It is a comparatively recent development in mainstream practice for schools to be considered as anything other than institutions where teachers transmit their knowledge to the young, and where they have the right to maintain order by force.<sup>1</sup> This is not to suggest that Peters was promoting the obedience of the Victorian era. He carefully distinguished concepts of discipline and punishment, and would have been well aware that Dewey rejected discipline as submission to legitimate authority as an end in itself. For Peters it was rather the goods that discipline enabled that gave it justification. To claim that discipline as obedience to rules is good because it engenders good outcomes requires that the principles behind the rules being followed are good. This is a claim which one may be uncomfortable to make for all institutions in a pluralist climate when schools can promote widely differing values. Peters recognised the imprecision around the concept of discipline ('discipline is a very general notion connected to conforming to rules': 1970, p. 267) and wrote in greater detail about the justification of punishment, but observed that discipline is directed towards the establishment of order to enable the progress of learning (p. 266) and necessarily requires submission to rules or some kind of order (p. 267), whether

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<sup>1</sup> While theorists of education have proposed alternatives to such a model throughout the history of writing on the subject, it has persisted as a mainstream public understanding of the school in practice.

rules of an academic field, a method of study, or some external environmental factor that enables learning. Peters observed the distinction between internally and externally imposed discipline, and the benefit for the authority of a teacher of getting pupils to identify with the aims of a school (p. 258), both considerations on which this thesis' argument shall build.

Foucault's analysis of the school as a disciplinary institution (1975/1995) has significantly affected the understanding of the term, and it is important to clarify that this is quite a different understanding of discipline from that which shall be adopted here. There is lexical overlap of the terms because of the traditional understanding of discipline as obedience that this chapter challenges. Foucault's discipline consists of a series of techniques by which institutions exercise power to control bodies and order them for the efficient performance of tasks. In their moulding of students to enter society and the workforce, schools are a fertile ground for such an analysis. Addressing non-Foucauldian uses of the term 'discipline' does not entail disagreement with his analysis, rather a focus on positive understandings of discipline towards which educators would be happy to claim they strive. This includes educators who consider good education to be enabling individuals' own conceptions of their development, rather than fitting them for tasks in modern industrialised society and beyond. Foucault's discipline works to create 'docile bodies', a goal which can work in harmony with securing submission to rules in the school. This does not, however, optimally enable learning if one accepts that enlisting a student's intrinsic motivation is a factor that makes a positive contribution.

Foucault deploys Bentham's *panopticon*<sup>2</sup> to illustrate how the 'unequal gaze' can support the efficient completion of desired tasks. When individuals (such as students in school) are aware that they may be being observed, but unaware of whether or not they are being watched at any given moment, they act as though they are being monitored at all times. In a school context, the student's internalisation of being subject to power can aid the efficient management of classroom order but at the cost of aspects of freedom that many teachers would value in their classroom. Of the concepts of discipline addressed here, Foucault's discipline sits most easily with the maintenance of order to enable learning. Good school discipline, however, shall be argued to entail more than this, including aspects such as a

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<sup>2</sup> In an institution built to such a model, one authority figure is able to observe any or all of the inmates at any time without them being aware of whether or not they are being watched.

critical awareness of the exercise of power that do not sit easily with an authoritarian environment. As a description of many school environments, Foucault's analysis of disciplinary power is accurate and revealing, considering the effects of hierarchical observation, normalizing judgement, and examination. It is not, however, a description of a virtue that individuals would be happy to internalise as part of their own individual self-discipline. There are two different concepts being addressed here: Foucault's discipline resembles the force of a malevolent hidden curriculum, rather than the 'good school discipline' a head teacher would be happy to approve in his or her school prospectus.

Snook (2003) makes a further distinction between two different concepts both present in non-Foucauldian understandings of discipline in schools. He describes discipline as both the means by which rules can be enforced and also as obedience to relevant rules (pp. 111–2). This separates the internal and external forces both present in the concept: discipline can denote both pressure from another to act in a certain way and the pressure which one comes to apply to oneself if well-disciplined. Snook argues that genuine commitment leads to self-discipline: pupils in schools may not have this, as they have often not made a conscious choice to be there for themselves, and so he consequently allows for and distinguishes between external and internal discipline as separated above. If a person knows what he or she should do, but does not act accordingly, then he or she is poorly disciplined and educative or retributive sanctions can then be adopted.

These two concepts under the term of discipline may still lead to confusion, but good 'school discipline' can be a unified concept that attends to both. An educational environment can attempt to promote the development of self-discipline in pupils while at the same time providing external conditions that incentivise acting in accordance with such a quality. Snook also notes that while discipline is probably the more important concept to discuss, punishment tends to receive more attention in the philosophy of education (p. 114). Works addressing both can neglect to make this important distinction, or focus primarily on a Foucauldian understanding of discipline because of its clear links with punishment as a force to shape those subject to it (e.g. Marshall & Marshall, 1997).

Wilson (1981) conducts a careful examination of different conceptions of discipline that highlights a key feature of internal (self-)discipline. He contends that there is confusion and

misunderstanding over discipline and moral education, and opts for a definition of discipline as 'obedience to established and *legitimate authorities as such*' (p.30). This is a key distinction: not obedience *per se*, but combined with a critical eye on the legitimacy of the request for it. Wilson highlights the importance of accepting rules not due to incentives or force but due to conscious respect for the rules themselves. He draws comparison to the better-disciplined subject willingly giving obedience, in contrast to an ill-disciplined soldier muttering about rules but following them anyway (p. 38). This respect for the legitimacy of the authority can be considered in the classroom, where order supported by some peripheral factor such as a personal liking for the teacher might not be considered good discipline. This conception suggests some classroom management systems may be better than others at promoting discipline in how they obtain their results, and this shall be addressed shortly. It also provides grounds for comparative evaluation of culturally-tailored classroom management practice: Noblit (1993), Delpit (1995) and others have written about the benefits of demonstrating personal authority, more than the authority of one's position, in working with African American communities. By this argument, such an approach may be attending less well to the development of pupils' self-discipline *unless the authority of the teacher is clearly justified*. Working in a culturally-responsive manner can be done with attention to the development of self-discipline, but it is much harder when one is not clear what the concept entails.

The argument of this thesis will build on this somewhat neglected aspect of Wilson's analysis, and consider a well-disciplined individual to be one who understands and accepts legitimate authority; the better they follow it, the better self-disciplined they are.

When speaking of groups, somewhat military connotations of 'disciplined' to mean 'controlled' or 'kept in line' may readily come to mind. Wilson's position can be developed to explore how the term 'well-disciplined' can vary in meaning depending on the size of the group being described. It illustrates how ambiguities in colloquial speech can hinder the construction of a clear, shared understanding of a concept, as follows.

*A 'well-disciplined' individual:* When not used to describe one who is slavishly obedient, this is usually a description used for someone doing what is necessary to achieve a longer-term

goal. Obedience to legitimate authority can be understood as a part of this, with a necessary intermediate stage having 'authority' over the completion of a dependent goal.

*A 'well-disciplined' individual (as part of a group):* This may entail further meaning in addition to the above, with a focus on being attentive to the restrictions on one's own permitted actions for the better effectiveness of the group. Such an individual is thus at least tacitly accepting the group's goal: a threatened or cowed individual is not well-disciplined. In the context of wider society, if an individual considers a secular government to hold just authority then that individual can be considered well-disciplined if he or she accepts certain restrictions that the state places on an individual's actions, such as the requirement not to act in accordance with a personal belief if such action violates the law. Obedience only to just authorities requires an understanding of which authorities are just. Consequently, schools need to educate pupils on how to evaluate whether authority is just in order to enable them to be well-disciplined. This is therefore an important component of good school discipline, and shall be expanded upon as this thesis progresses.

Usage of the phrase 'well-disciplined individual' can seem to carry some implications of 'one who obeys effectively'. This suggests that a move away from using the term 'discipline' might be beneficial, concentrating instead on its component aspects. Thus far in the school context these appear to be external inducements to behaviour that develops self-discipline, and adherence to just authority, which requires a developed awareness of what authorities are just. These can be recast as three key components of good school discipline: the maintenance of good order to enable learning, education about just authority, and developing the disposition to act in accordance with such authority. In evaluating the success of various systems of classroom management in promoting good school discipline, this thesis shall consider whether they promote the achievement of all of these goals.

When discussing a well-disciplined member of a group, the legitimacy of the group's authority may be being presumed. The subject's discipline is to their place in the structure, and the legitimacy of the structure is often not examined when discipline is discussed colloquially. Better school discipline, entailing better education about just authority, would aim to challenge such presumptions.

*A 'well-disciplined' group:* This is a group that works together, obeying the authority held to be the relevant, local source of just authority. Understanding the source of such authority is critical to evaluating whether a group is well-disciplined to a just cause, or marshalled to an unjust one. In the classroom, pupils typically understand such authority to be inherent in the teacher's role and instructions, rather than from the learning which the teacher's instructions are meant to enable or from the improvements in society such learning is intended to bring about (Nucci, 2009). This is an understanding that develops with age, and can be developed in older students by the way teachers engage in school discipline. Most young children will process adults as having *fiat* power, and obey because the adult said so. Older teenagers may be more invested in enabling their learning, or achieving social outcomes they desire. This understanding can be developed beyond making simple assumptions that the current extent of the authority of the person in office is justified, and later sections of this thesis attend to how this goal can be addressed as part of classroom management practice.

With a poorly-understood concept communicative accuracy is important, and usage of the term 'discipline' may be impeding the development of clearer understanding of what this field should involve. When attempting to communicate effectively, individuals ought to allow for what meaning they expect others to draw from a choice of word or phrase. Relevance Theory in linguistic pragmatics describes how an audience, in searching for meaning in any communication, will process possibilities as far as is necessary to meet their standards of relevance, and then stop (Sperber & Wilson, 1995). Consequently, speakers may assume they are aiming for similar goals when they agree on an umbrella term such as 'good discipline' even though their understandings of features beyond the most central may be radically different. Beyond an utterance itself, expected referents are also similarly subject to presumptions according to what a particular party perceives to be relevant. This explains how much disagreement or confusion can go unnoticed when two parties discuss someone who is 'well-disciplined', and unrecognised differences can develop. Even if interlocutors share an understanding that the relevant authority ought to be just, the identity of that authority is not established and both parties can understand it to be a different entity. In verbal communication, groups with unjust authority thus are likely continue to be described as 'well-disciplined' without their justification being considered

sufficiently salient to the definition. This suggests using unambiguous terminology wherever possible.

In school discussions, there is potential for confusion as different teachers can consider there to be different grounds for just authority. A well-disciplined pupil could be such both on the grounds of respecting the legitimate authority of a teacher and of being committed to the learning involved in being a pupil. The two overlap here as the teacher's authority may be argued to come from the fact that they enable the learning, which further explains why some of the conceptual confusion exists. This seems all the more reason for clarity to be desirable in education on just authority.

In conclusion, when considering the importance of just authority, obedience seems less of a central requirement to discipline than Wilson considers it to be. He encourages an element of prompt obedience to authority (Wilson, 1981, p. 43) when this authority might merit questioning. Obedience can still be prompt, but given to someone one has judged to have authority in relevant domains. Practically, one does not evaluate the authority of a trusted source at every moment, and consequently in many cases there is nothing wrong with a default attitude of trust towards a teacher. However, Wilson's broader embrace of obedience is more prone to be understood as including an unhelpful element of the 'control' sense of discipline as a common cause of such collaboration. When just authority is established, obeying it can be well-disciplined, but the swiftest response includes elements of both acceptance and conditioning. Both may be present in the common understanding of the term, and there is benefit to their separation.

Thus an examination of the concept of discipline that considers just authority exposes that less focus should be placed on rules themselves, rather on their sound justification. It undermines traditional force-based methods of classroom control when they do not have justified grounds, as their end is not the creation of a well-disciplined environment as understood in more depth. Aspects of discipline can be educational objectives in their own right, and not just facilitators for education. As this thesis continues it will explore how these educational goals might better be met. Discussion of 'good school discipline' can be prone to misunderstandings, and it would enable clearer progress to address the three key components isolated above instead: the maintenance of good order to enable learning,

education about just authority, and developing the disposition to act in accordance with such authority. The next section shall suggest a further reason it would be beneficial to do this, as substituting goals of good discipline with consideration of ‘classroom management’ is likely to lead to some of these goals being neglected and for this to go largely unnoticed.

Returning to the everyday understanding of ‘discipline’, it is specifically helpful to refer to Wikipedia here because of its ‘community’ editorial procedure. Iterative revision will tend to settle on a core on which the community of editors agree. The article on child discipline claims that ‘While the purpose of child discipline is to develop and entrench desirable social habits in children, the ultimate goal is to foster sound judgement and morals so the child develops and maintains self discipline throughout the rest of his/her life’ (‘Child discipline’, 2016). It recognises the concept contains something of social education, of prompt response (habit), of judgement (whether authority is just) and also something about moral education, which this thesis shall go on to distinguish carefully from education about just political authority. It is child-focused, and concerns their development. After detailed and repeated consideration, the global consensus is very close to that which is developed here — and considerably distant from the everyday usage of the term.<sup>3</sup>

## **Discipline and classroom management, and their justifications**

‘Classroom management’ is a term often used to describe teachers’ actions aimed at establishing either order or some broader conception of discipline in the classroom. This section considers whether attending to classroom management instead of considering a wider understanding of discipline neglects some of the important goals revealed by the analysis above. It concludes that classroom management approaches alone tend towards providing practical toolkits, and tend not to consider the justification of authority. This omission addresses fewer educational goals than attending to a broader conception of discipline.

Recent manuals on classroom management have moved away from the word ‘discipline’, which has come to sound archaic and early twentieth century in all but the most traditional

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<sup>3</sup> Such a consensus is an example of the promise of using the best of public reasoning to solve disputes, an idea which shall be explored in depth in later sections of this thesis.



British English. One distinction unhelpfully masked by the language change is the loss of the moral dimension allowed for by the word 'discipline': 'classroom management' is a specific set of skills, and that these skills must be used is presumed, so the moral question is avoided.

The history of specific developments in classroom management is marked with major milestones and theoretical shifts, and has been given book-length treatments. Often such histories are student texts (such as Scarlett, Ponte and Singh: 2009), or a precursor to an author's own project and preferred approach. Summaries of the history of discipline and classroom management in New Zealand specifically are given in Marshall and Marshall (1997) and Macfarlane (2007), while a volume edited by Evertson and Weinstein (2006) summarises many contemporary issues. Specific systems of classroom management and their suitability for promoting good school discipline are addressed in chapter two. There is, however, no overriding theme or consensus in the summary literature of what the most effective systems are, and much less on the theoretical assumptions they should encapsulate. Differing cultural contexts have some responsibility for this,<sup>4</sup> along with a willingness to devolve decisions to those with experience in a specific environment, but this lack of a consistent philosophical base is not always accompanied by an acknowledgement of the importance of the issue, including by those with the expertise to write comparatively about the whole field of school discipline and classroom management. Books in the behaviourist mould such as the works of Canter and Canter (1993) describe an ends-focused approach that handily illustrates the belief that discipline is to enable the delivery of learning, rather than that teachers are taking responsibility for the developing of specific qualities in their students. Marland (1993) and Cowley (2006) are examples of works of methodological guidance aimed at an audience of teaching practitioners. Intended to be useful and practical, by writing from within a system they still reveal to the attentive reader where its boundaries are. Swift solutions to short-term problems are understandably popular with overstressed teachers, but the potential philosophical inconsistencies highlighted above may serve to hinder the achievement of their own broader educational goals. This is not a criticism of these works in themselves, nor of their aim to give detailed

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<sup>4</sup> The final section of Evertson and Weinstein (2006) covers six examples of this, and practical guidance for dealing with such is given in chapter nine of Scarlett, Ponte and Singh (2009).

practical advice (at which they often succeed from their own particular perspectives); it is rather an attempt to highlight the danger of concentrating on the practical and tactical level when the strategic picture is unclear — a danger that can potentially undermine one's whole educative mission by following such anti-reflective descriptions as 'matching the behaviour management theory you learned in college with the reality of being in the classroom' (Cowley, 2006).

Reflecting their purpose, the above works are often light on their justification, focusing instead on practical techniques and either assuming knowledge thereof or neglecting it entirely. The maintenance of order through classroom management is not too complex to justify through the enabling of learning — a core function of schools. This does not, however, attend to broader developmental aspects of discipline. A productive approach to considering the justification of such activities will be reflecting on classroom management as a subset of broader restrictions: namely, why there should be limits on individuals' actions or preferences when they conflict with those of others. Later chapters in this thesis will explore principles of co-operation and fairness in greater depth; for the question at hand it is instructive to look at how deeply the authors of works on classroom management seek to justify their goals.

Many take tacit justification from the current *status quo* of compulsory education. Mandatory school attendance is predicated on a belief in the importance of certain goals, rights, or values. If these have trumped the student's right to make autonomous decisions about their attendance, it is likely that the same arguments would be used to justify actions to better enable the achievement of these goals, and thus the question of how classroom management is justified is subordinated to a larger question of compulsion in education (which shall be addressed in later chapters of this thesis). This runs a significant risk, as introduced above, of both obscuring existing moral failings and leaving teachers without easy recourse to justify their actions to non-compliant pupils. Obedience-based approaches can clearly fall prey to this criticism: whether seeking to find the right authoritative/authoritarian balance, or masking coercion with choices and 'natural' consequences, the discussion is typically one level removed from an overall goal of good discipline, concentrating rather on increasing a reader's efficiency at maintaining order for whatever their consequent goals may be. Furthermore, there is also nothing inherent to

many ecological or context-responsive approaches that compels exploring any deeper justification for order-maintenance activities. As Butchart (1998) argues, we should not ask what works — all manner of barbarity 'works' for sufficiently reductive goals — but rather ask *to achieve what ends, or with what consequences?* One end can be the maintenance of order, but there are other ends; and there will be side effects to approaches to classroom management aiming solely at that. The inadequacy of such approaches is further explored in the next chapter to highlight the contrast with school discipline systems that aim for goals beyond the simple maintenance of order.

If school attendance were voluntary,<sup>5</sup> it would be easier to conceive of a lively discussion over the justification of enforced order in the classroom. One would need to consider for what reasons students were attending, and what classroom conditions and regulations would best help them achieve their goals. Some of these goals would come into conflict with the goals of other individuals. One would then have to argue which goals should take precedence, and why. Actions which disrupt learning in the classroom may be considered of subordinate priority to actions which support meeting goals that school attendance is primarily considered to serve. The preferences, beliefs, and moral perspectives of various parties can be considered. One could argue from the cost of lost opportunities — students can socialise loudly in a number of environments, but the opportunity to learn French effectively afforded by a knowledgeable teacher is less available elsewhere. The collective preference of the people in the room may be for that end to be achieved.<sup>6</sup> Perhaps some compromise would be reached, allowing for the importance to the individual of certain types of play. If students' voices are given value, even to a limited degree, different moral perspectives can be considered and the justification for classroom management can be better understood. A more open approach to the justification of classroom behaviour management can enable pupils to better understand it, and thus exhibit good discipline in obedience to it, rather than merely responding to coercion. These are questions of justice

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<sup>5</sup> For practical purposes, one can build a strong argument here even if school attendance is compulsory by locating the compulsion outside the realm that teachers can reasonably address: for example, building on 'because your parents make you come to school'. Transparency is, however, more educative about adult society, as this thesis shall go on to argue.

<sup>6</sup> The issue of preference in a given moment, when one might be in an altered emotional state, compared to one's reflective preference at leisure is one that troubles issues around consent and consequence in all environments, not just schools. The section in chapter six on children's desires and agency explores this area in greater depth.

and conflict resolution, and this thesis develops an argument that learning about these in school is better preparation for life in adult democratic society.

Following the above argument, classroom management approaches which place order above almost all else are not ideal — and yet the most ‘practical’ behaviourist guides eclipse more thoughtful systems in popularity and public consciousness. When even books that provide an overview of the whole field of classroom management do not highlight the importance of factors other than order in the classroom, it is no surprise that some teachers’ understandings of good discipline are limited to the practical maintenance of order. Conflating the concept of classroom management with attention to discipline can licence an overly reductive approach to discipline that only addresses the maintenance of order, which is not only insufficient but also masks its being so by narrowing the target to something more technical and easily measurable, yet incomplete.

One might argue that traditional references to discipline can be just as prone to a reductive focus on behaviour. Even when reading a work with a traditional focus on discipline as rules and control, however, one may still draw an understanding of school discipline that allows for discipline to include broader goals than the necessarily reductive focus of classroom management. Goodman’s (2006) theoretical analysis of discipline considers it to lie closely to conceptions of rules and classroom management. In ‘School Discipline in Moral Disarray’, she claims that:

School discipline appears to rest on three justifications:

- Discipline is intrinsic to academic mastery, embedded in the learning process itself.
- It establishes order in the classroom and order is the gateway for learning.
- It is an independent good – no school discipline, no obedience, no self-discipline.

(Goodman, 2006)

How can discipline as supported by school disciplinary codes, as is Goodman's focus, still be read to entail the conception of discipline as adherence to just authority?

1) Discipline as intrinsic to academic learning. When recast as 'rules for how to learn', which is what the context suggests, these rules are domain specific: good discipline for learning will be different in different fields of study. If one’s moral code contains any degree of

consequentialism it is thus impossible to consider discipline for learning always to be good, as one could be disciplined within a system that does not work for the greater good.

Discipline can support effective schooling, but the moral status of that rests on effective schooling being a good, and some environments may lead to outcomes which are not. The justification of the learning taking place is important, and pupils who better understand and accept this demonstrate better self-discipline.

One can draw support from Dewey (1913) here. For Dewey, interest is the link between an individual having the means to act, and the undertaking of the action. Goodman quotes that for Dewey this is 'inseparable from the interest and attention a child brings to an endeavour' (Goodman, 2006). Conceptions of discipline as punishment do not promote interest in learning, and without interest a pupil lacks the drive to transform his or her means to act into action. If understanding and intrinsic motivation lead to better self-discipline in education, a system that encourages these is better than a simple behaviourist 'management' system of incentives and sanctions alone for promoting learning in schools. Disciplinary resolutions are better when explained, so that pupils are not merely subject to them but feel some engagement with and motivation from a system which justifies them.

2) Establishing order in the classroom to enable learning. In context, this is not intended to be entirely a description of externally imposed order for the sake of management, but rather as a gateway to further virtuous and desirable outcomes, which are justified on their own merits. This fits well as an element of a full conception of discipline, though not as the whole of it.

3) Discipline as an independent good. Goodman is considering disciplinary rules here, and it is a small step from 'rules justified by order...to rules justified for their own sake'. This is an uncomfortable conclusion, for a number of reasons. She reminds us that 'The infusion of school rules with elevated moral status was central to Durkheim's classic work on school discipline' (Durkheim, 1925/1961). Durkheim considers some restraint of natural impulses as a good in itself. If one believes that submission to political authority when it goes against one's individual will is good, then there is traction in this: as discussed above, well-disciplined individuals are able to act in ways that do not accord with their own immediate desires. Yet it is only political authority, rather than mere force, when it is justified:

consequently, this notion of discipline still requires one to be able to evaluate the justification of the demands made of oneself. Durkheim's notion of being effectively autonomous while under the control of rules requires specific attention to how independent one must be to be considered autonomous. This complex topic is addressed in greater detail in later chapters with discussion of children's rights and liberal conceptions of the individual.

Discipline so considered as an independent good seems intuitively questionable as while obedience to good rules may be good, not all rules are good rules. Obedience in itself may not be a desirable quality due to its context dependence: the moral worth of obedience depends on what it is to which one is obedient. Submission to sanctions becomes the focus in practice when obedience to rules is itself considered a virtue, and this can lead to a focus on gaining compliance rather than on examining or explaining the justification for a ruling. Much conflict can arise in the classroom in response to requests for compliance that appear to be unjustified. The encouragement of understanding needs to come in tandem with the maintenance of classroom order.

In summary, a system that is able to explain the justification of rules rather than attempting to elicit unquestioning obedience promotes better discipline in students. A good model of school discipline should not only maintain order, but also serve an educative function. This thesis shall go on to explore how a conception of discipline where rulings are explained and justified serves as better preparation for adult democratic life. Classroom management is a part of effective school discipline, but should not be confused for the whole of it.

Many good classroom management practices do not need to be applied in a context where order is almost the only goal. Attention to developmental goals of discipline is not necessarily impractical. Reminding pupils of a previously-resolved and temporarily-forgotten focus, diverting interruptions, or heading off conflict need not solely be techniques for attaining temporary peace. A swift reminder of a rule can refresh an existing understanding of a principle. This thesis argues that attempts to elicit desired responses without aiming to engage intrinsic motivation are a poor approximation of good school discipline. One can add explanation for pupils of why particular rules are good. Teachers can explain why order leads to learning, and highlight that goal, rather than focusing on order without justification.

Although such a position differs substantially from Goodman's on the value of simple obedience, there is common ground to be found on an argument for presenting publicly justifiable positions in conflict resolution. She writes that:

Discipline policies are weakly linked to the moral and educational purposes of schooling ... (and)

Going public with the moral goals of education would afford students the opportunity to align themselves with moral purposes now obscure. Without such an alignment, students are likely to perceive much of school authority as illegitimate, punishment as undeserved, and obedience as involuntary. (Goodman, 2006)

Consequently, presenting the justification for discipline might be desirable even for those solely committed to classroom management, as authority which appears justified incites less rebellion than arbitrary coercion.

### **Common conceptions of discipline and classroom management**

With so much difference to be found between those making a serious moral and conceptual investigation of school discipline, one might expect great degrees of separation between the positions held by working classroom professionals where thinking seriously about such things is usually not the primary concern. A practical focus on improving school discipline needs to consider teachers' approaches to the problem: while important, an ever finer dissection of concepts in contemporary journals will likely have less impact on lives than communicating a strong and nuanced understanding to those interacting with children every day in schools. Consequently, these next sections examine both how the general public and the teaching profession understand school discipline, and how specific models may promote greater clarity around authority and conflict resolution in the classroom.

Measuring the 'public understanding' is not precise; representative samples are only representative according to the variables considered significant, and only provide a snapshot from which extrapolations can be made. Nonetheless, one can be aware that some groups may be disproportionately featured and draw conclusions accordingly. Similarly, coverage in the popular press does not represent a 'general' view, but at least enables a reader to examine the terms in which discipline is discussed in one sphere of

public discourse, while acknowledging that the understandings many people have of it may well be significantly different.

There are many outside the education sector who primarily want teachers to instil quiet obedience into children: they trust education, as they variously understand it, to take place in schools as long as attention is being paid to the teaching. The banking concept of education<sup>7</sup> is still alive in the public consciousness, and this may seem to require only what is distinguished above as classroom management rather than a fuller understanding of school discipline. News directed at the public focuses on current issues such as policy reform and local change rather than overarching questions of the nature of education and key goals it ought to achieve. This enables such outdated understandings to linger on longer than they otherwise might.

Much of the debate in New Zealand over the last fifty years has been over the subordinate question of whether or not ‘discipline’ (meaning punishment) should be physically imposed. One does not have to look far into the past to find the adage ‘spare the rod and spoil the child’ in regular use, and a few months’ attention to newspaper editorials would reveal that the recent anti-smacking legislation in New Zealand is not universally popular (‘Anti-Smacking Polls : Family First NZ’, 2014; ‘Opinion: Anti-smacking law still fails children, 2015; ‘Spanking Can Be an Appropriate Form of Child Discipline, 2014). There remains an abiding belief that physical interference from an authorised third party is not acceptable, but parents are somehow exempted from this — alongside a hostility towards other parties participating in the social correction of one’s children (‘When Another Parent Disciplines Your Child’, 2011). Existing conventions and power structures often go unchallenged, and may be at odds with the principles of governments and social structures established to manage adult societies. Identifying the infinite sources of influence upon socially-embedded individuals is an impossible task, but some parties typically enjoy public sanction of greater levels of authority over children, such as parents by relation, or teachers by their role in the education system. This influence over children’s lives is an area where greater precision and justification in public discourse<sup>8</sup> would be helpful, as it may be accepted as the *status quo* rather than its justification being questioned — similarly to the idea of school discipline, and

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<sup>7</sup> In which teachers actively deposit knowledge into passive students’ minds (Freire, 1968/2000)

<sup>8</sup> This concept shall be explored in chapter four, alongside its role in democratic processes.



how it may be discussed by two parties with very different conceptions of what it entails but believing they are discussing the same thing. Chapter six will address these concerns of adult authority over children in further detail.

Such traditional physical approaches to discipline and classroom management may be supported by the inertia of established methods and attitudes, by the concerns of practical convenience outweighing those of empathy, or simply as the most practical way of getting the measurable outcomes beloved of politicians. If it would be wrong for a group of adults with similar capabilities to children to be institutionalised and physically punished, then for children to be considered a special exception there needs to be a specific argument contingent on their childhood. Existing practice or the power to do so without retaliation are not compelling reasons in isolation. Teacher education can productively touch on moral issues such as these; the argument affects the lives of many vulnerable children, and a legal or *de facto* compulsion is less convincing than one with an intrinsic justification an individual accepts. Discussion of whether discipline and punishment should be physical or not misses the deeper point that the immediate targets of maintaining order or achieving short-term goals are only part of a complete conception of classroom management, let alone the development of discipline.

There has not been a large scale survey of teachers' opinions on the meaning and purpose of discipline since Wilson's *Discipline and moral education: A survey of public opinion and understanding* (1981). Specifically related phenomena have been addressed, such as how idealism and theory-orientation<sup>9</sup> in new teachers reduce in the first few years after qualification, but not positions concerning the theory and justification of classroom management itself. Wilson provides quantitative data to highlight how people's conceptions of discipline at that time mostly focused on good order imposed via a top-down structure, with more abstract and liberal views increasingly apparent in accordance with progression along a continuum of age and theoretical engagement: from young children to older children, adults, classroom teachers, head teachers, and university researchers respectively. When staffroom discussions focus on immediate problems and effective maintenance of a quiet environment, the commercial 'toolkit' approaches can seem an ideal solution,

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<sup>9</sup> Which may support careful consideration of what good discipline entails.

regardless of their theoretical underpinnings, or lack thereof. Without an awareness of broader goals of discipline beyond classroom management, teachers' interests in simple classroom order are not fully aligned with the developmental interests of children, as order may come at the cost of other important aspects of discipline such as developing intrinsic desire to engage with one's learning. Even when teachers are engaged with the rationale for a particular approach to classroom management, they may not be fully aware of what philosophies their chosen models are designed to support. Thus, even when attempting to act in line with a specific philosophy, their disciplinary actions can undermine the messages they are trying to convey elsewhere — and due to the disconnect between disciplinary theory and practical works on classroom management they may not become aware of how their efforts in one domain might be being undercut by well-intentioned efforts in another. Furthermore, this is besides the practical concern that teachers may often not have the time or energy to look beyond achieving an ordered day in the classroom, and to consider or care about issues of philosophical consistency.

A clear understanding of what discipline entails could be a great help to teachers' consciousness of why they are carrying out certain classroom management actions, rather than their maintenance of authority becoming mere habit. This can be helpful even from a simple behavioural perspective as clear reasons for disciplinary actions can encourage pupil co-operation, as discussed above. If it is not clear why certain disciplinary procedures are being followed, then a pupil may well see them as the arbitrary exercise of power rather than something with a justification they might find acceptable.

This is an important argument for adopting a comprehensible and transparent model as subsequently proposed in this thesis. A consistent and simple understanding of why certain disciplinary actions are justified can lead to clearer decision-making and be more accessible for discussion, which is more conducive to the engagement of understanding and motivation desirable in good school discipline. A concealed set of beliefs in tension with each other and without clear justification achieves this goal less readily. It may be hard to have a consistent explanation ready of why classroom management promotes discipline for an effective learning environment, which in turn leads to some conception of education, at the same time as carrying out the many demands of classroom teaching. A simple model may be a distinct improvement over an oversimplified understanding of a complex one. The

goals for a fuller conception of discipline as stated above (the maintenance of good order to enable learning, education about just authority, and developing the disposition to act in accordance with such authority) could be expanded to note the importance of educators having an understanding of them. The next chapter shall explore which systems of classroom management are best suited to achieving these goals.

## **Chapter 2**

### **School discipline systems in the review literature**

The previous chapter examined widely held conceptions of discipline, and ideas of what elements a school discipline system should feature. It explored how there is widespread confusion over what a school classroom management system should achieve, and furthermore what 'good school discipline' actually entails. The chapter concluded that the management of school discipline should aim for three primary goals: the maintenance of good order to enable learning, education about just authority, and developing students' dispositions to act in accordance with such authority.

This chapter examines how these goals are often neglected. Popular behaviour management systems generally target the first of these three components of good discipline and treat the others as optional extras. When all three goals are considered to be equally important, a review of available methods reveals that particular families of systems are much more fit for these purposes than others.

The first part of this chapter examines how books that classify and summarise classroom management systems are not drawing important distinctions between them. The purposes of school discipline beyond the maintenance of order are not being addressed sufficiently directly to leave readers prepared to make well-informed decisions about which classroom management system(s) to adopt. Choices are often devolved to a teacher's own 'style' or even 'philosophy' when particular options are necessary requirements of good discipline systems. Many readers will not have further philosophical knowledge to inform their choices about classroom management systems, and may be encouraged to prioritise only the practical maintenance of order by their immediate needs and environment. Such an approach may be in conflict with their broader educational aims.

The second part of this chapter argues that some classroom management systems are better suited than others for meeting the wider goals of good school discipline, particularly restorative discipline systems. It argues that community-based systems which seek to justify the grounds for authority in school discipline are performing social education that better

prepares students for adult life, and introduces how discussion of social contracts can support this.

### **Attention to the broader goals of discipline**

An extensive number of discipline and classroom management systems are available to teachers. Teachers in training are often exposed to books that aim to provide an overview of the range of systems available, and their particular strengths and weaknesses. Many such books aim to provide guidance for teachers in choosing systems or methods that align with their own individual preferences, convictions and philosophies without consideration of whether or not these might be coherent. Such books often treat the sole important feature of good discipline to be the maintenance of order, with all other aspects as optional and open to the teacher's choice. While devolving decisions that are merely matters of preference to the individual practitioner is a defensible course of action, there are purposes to classroom discipline beyond the maintenance of order that may be neglected if not highlighted as important features of good classroom discipline. Studying only such books can leave beginning teachers under-informed about what good school discipline involves, and ill-equipped to make a choice that leads to the consequences they desire. If classroom order is highlighted as the only key goal of good classroom discipline, then a writer's attempt to adopt a neutral position can come at the cost of leaving his or her readership with a weaker link between their choice of discipline system and their overall educational purpose.

This section examines Ramon Lewis' *The discipline dilemma* (1997) in some detail, as it addresses the goals and justifications of school discipline systems to an extent that illustrates this well. More anchored in theory than many other comparisons of discipline systems, it is still aimed at the teaching professional, and is presented as such: 'practical ways ... to cope — underpinned by sound theory' (Lewis, 1997, back cover). This chapter then proceeds with an examination of a recent example of a course book for teachers in training that aims to provide perspective on the field. It concludes that the same issues persist, and are perhaps even more pronounced in a work without as strong a commitment to engaging with theoretical justification.

Lewis breaks disciplinary approaches into three general families: teacher oriented, student oriented, and group oriented approaches. He invites the reader to select elements that appeal the most to their convictions and disciplinary style (p.146). He goes to some length to warn of the risks of philosophical inconsistency inherent to a 'pick-and-mix' approach, but it is only in the final chapter, added in the second edition, that this issue and its consequences are addressed. It suggests that it is quite likely that Lewis would make a committed case for democratic principles to underpin discipline, but — at least in the body text prior to the second edition — that he was writing with palatability for a broad audience in mind.

It is only on a fairly close reading that this position becomes apparent. On an initial perusal, the book appears to be grounded simply on the practical desire to maintain order typical of many such guides. The cover illustration supports such a reading: the three different approaches to disciplinary systems he isolates are being mixed as if in a kitchen, stirred together in a bowl to form 'classroom calm'. This appeal promotes a reductive idea of what classroom discipline is to an audience of educators: hitting only the goal of order maintenance, as opposed to other goals also established in the first chapter (awareness of the justification of authority, and the disposition to act in accordance with such).

In the earlier parts of the text, Lewis acknowledges that teachers are adopting more democratic practices (p.2) but 'seeking control techniques that work' (p.4). Lewis' contention is that (in Australia in 1997) teachers appear willing to adopt democratic processes, but largely for authoritarian purposes. He acknowledges his own preference for more democratic and less authoritarian processes, yet it is not clear from the outset which particular aspects of democratic processes or their outcomes he prefers. His endorsement of a '*range of approaches*' (p.7) steers away from making a firm commitment to what a discipline system is trying to achieve beyond classroom order. While devolving such decisions to the 'time and place' is consistent with being sensitive to cultural context, also being responsive to the 'individual teacher's personality' may leave too much scope for inferior methods to be chosen if many teachers do not have a clear idea of the goals of classroom discipline beyond the maintenance of order itself.

While initial teacher training programmes continue to provide a broad foundation in classroom management programmes and their rationales, there remains a risk that all are seen as equally justifiable if their overarching goals are not discussed. For example, a continuing attention to authoritarian methods, even if only to present them in contrast to techniques which also consider the development of pupils' understandings (such as the community methods described in the second part of this chapter), can make such methods appear still to be within the realm of acceptable practice. It is instructive to make students of education aware of them if they remain widespread in teachers' practice, yet there is a concomitant risk that some readers will see this as presenting an option that the authors find worthy of consideration. It would be preferable to reach a point where such methods no longer need mentioning as a potential solution, just as it is desirable not to mention that physical brutality is still effective at securing compliance while neglecting to mention its ineffectiveness at promoting other educational goals.

One of Lewis' stated goals is to show teachers the 'assumptions about students on which different discipline approaches are based'. This can also be accompanied by explanation of the assumptions about school societies such systems make. Ideally it would be accompanied by a clear explanation of the incoherencies of some systems, yet textbooks such as this go to great lengths to present an appearance of studied impartiality, and to let the reader make a critical judgement on the evidence presented. This is misleading, and not possible in principle as judgements have been made on what material should and should not be included in the text. Mention or omission of the social goals of classroom discipline affects the realms of consequences readers are likely to consider when they make a choice of discipline systems to adopt. Discipline systems come with implicit goals, and omissions as well as inclusions have significant impact on a reader's likely thinking. Perhaps the lack of trenchant theoretical criticism alongside some systems as they are presented is due to the level at which such books are pitched; readers may be considered to be working at their full potential to absorb all the core factual material, and material on justification may be considered to be too demanding. However, if such is the case it would be consistent to omit the most problematic programmes, rather than to include them but with insufficient criticism. While one might hope all teachers would have the ability to evaluate programmes marketed to them with an eye for unrepresented shortcomings, readers (especially young

teachers in training) cannot be expected to have the knowledge, the criticality, and the capacity to consider all the relevant concerns when evaluating a discipline system, as well as not to be primarily influenced by that which is put most accessibly in front of them, and the explanations alongside it. The goals that are considered to be of importance for school discipline should be raised alongside systems that conspicuously address them, or fail to do so.

Lewis' chapter on developing school discipline policy is particularly relevant to these concerns as it is aimed at those with management responsibility in schools, who are making a considered decision about adopting methods that are both theoretically and practically sound. Here again there is encouragement of a considered approach, but no attempt to establish particular educational goals towards which school discipline systems should aim. The principle of devolving decision to the reader seems to be considered more valuable than overtly establishing principles of educational purpose that may be universal, but not universally recognized. Lewis argues for a more democratic discipline in chapter ten, and the principles behind such have to be more important than that which is not 'unacceptable to school communities in western democratic society'. Such a limit would constrain the ability of any work to be theoretically led, if what is currently held to be acceptable carries such strong weight. It narrows the field of possibility considerably, and leaves the reader's existing notions of acceptability in the driving seat. Lewis' text goes on to advise consideration not only of the teacher's beliefs and preferences, but also 'the political and human values you wish to cultivate in students' (p.146). While the details of this may be an area suitable for debate, there is the risk that these may be confused with values that are presumed to be necessary, but not stated.

This book illustrates the balance one has to find to be accessible, useful to a wide audience, and developmental without being confrontational. Without knowing one's individual reader, there is a risk of driving away more casual readers who perhaps could most use a toolkit to move them away from authoritarian discipline by making too involved an argument for a position quite different to that which they already hold. Lewis appears to have judged this level of engagement the best for kindling ideas and eliciting change as opposed to making a complete argument for some of his pedagogic values.



While the book does little to guide its readers to an understanding of certain goals as critical for good school discipline, in the final section Lewis clarifies some factors that might prove problematic in a discipline system for a school's overall educational mission. These final pages — added in the second edition — appear to be more addressed to educational leaders, discussing that there may be a need to convince teachers of the educational value of allowing children to participate in decision making, rather than presented to the core audience in the earlier body of the text.

Lewis provides a quotation (p.164–5) from Bagley (1914) which shows that some educators were aligned with what is argued here as long as one hundred years ago: that there are two goals for discipline, the maintenance of order and the preparation for adult society. He clarifies the existence of and issues with the hidden curriculum, and recognizes that in allowing for the views of parents from diverse cultures there is a risk of being overly relativistic when some principles ought to be insensitive to cultural considerations (p.166–8). Recognising the influence of parents as at odds with some classroom management techniques (e.g. the authoritarian home does not sit well with a facilitator in a democratic classroom), Lewis claims that this precludes the use of such techniques. However, if the use of such techniques is necessary to uphold values which ought not to be subordinate to judgements of acceptability within a particular culture, then the desirability of adopting them outweighs the difficulty of addressing cultural differences. On the content of such principles, Lewis references Gutmann (1987/1999) concerning the difficulty of giving either parents or teachers control of the educational process. When particular values are in conflict between home and school, Gutmann addresses the broader domain of the democratic state and the role of the school within it. She stipulates principles applicable to all members of a democratic state that enable the judgement of competing claims in such situations, specifically principles of non-repression of ideas and non-discrimination among students. Understanding the justification of authority is one of the goals of good school discipline, and, in situations where there is reasonable moral dispute, the impartial justification of authority will depend upon certain principles of political authority. This argument is developed in detail in chapter four, and links good school discipline with education about (and thus preparation for) adult society through developing pupils' understandings of how authority is justified in situations of disagreement. It is permissible

for certain models of discipline to override the preferences of parents in an analogous manner to how the interests of justice may override an individual's desire to act against the law with impunity. Grounding the justification for authority in rational political principles that are applicable to democratic states such as New Zealand is a key argument that this thesis shall go on to mount. As with a justice system, there are aspects of a discipline system that should not be devolved to the preferences of the groups or individuals implementing it.

There is the risk of cultural discrimination in imposing discipline systems on the unwilling, but there is also the risk of cultural relativism in the other direction. While many democracies militate against cultural discrimination, they cannot accommodate principles that would undermine democracy itself, and so certain discriminations must be made.<sup>10</sup> Good discipline, in exposing these principles, can serve as a part of an education for democratic citizenship. Discipline systems have some reign to be culturally sensitive, but not a free one when in conflict with principles of a democratic state of which they are part. Lewis draws similar conclusions, yet the argument about typical omissions in such texts is again pertinent: he does not explore what these democratic principles are in a way that makes it clear to readers of the text what their obligations might be. Teachers cannot make choices in accordance with principles of which they are not aware.

By way of example, it is not problematic that Lewis does not define what an 'unethical behaviour...that might require immediate teacher-led intervention' is (Lewis, 1997, p. 171). This is because ethics is a field under dispute, and not one on which our state must necessarily have a singular position. This question can be left open to local exploration and interpretation. However, the principles of democracies such as New Zealand place requirements on our social structures — including on the way schools operate — that are necessary if our practice of education is not to be inconsistent with the values and goals of our state. To fulfil the purpose of a state education institution optimally, requirements can be placed on the teacher to create an environment in accord with certain principles. While cultural sensitivity may be considered important, it is not a principle critical to the coherency of the system.

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<sup>10</sup> This is not to say the exploration and expression of such ideas is necessarily a problem, only their adoption when it might lead to contradiction or incoherency in principles of governance.

Lewis quotes a 1992 statement from the Directorate of School Education, Victoria, Australia, requiring an 'education for active citizenship....an increasing commitment to democratic values and fair processes and concern for the common good'. Lewis comes closer than most to taking a clear position on this first step, but is still likely to leave many readers with the impression that the principle of education for democratic citizenship is an optional extra, and, like in so many other works, a clear link to necessary components of good discipline is missing. Lewis writes that the 'type of approach selected by a school community should be consistent with the values it wishes to promote in the school' (Lewis, 1997, pp. 178–9) — yet without making the crucial distinction between values which are moral, and values which are structurally necessary. When a teacher struggles to make these links, their choices of discipline framework will be inadequately informed.

The final section of *The discipline dilemma*, from the second edition, asks what values a school community wishes to promote within the school — how much should this be a free choice, and what should be constrained or compulsory. Lewis makes the argument that participation in decision-making is a necessary component of children's education (p.180), strengthening his position from that expressed in the first edition, but this message is not interwoven within the rest of the text. He concludes that for democratic education, classroom management systems need exploration.

McDonald's *Classroom management* (2013) is a more typical collation of disciplinary methods; typical in that it does not feature Lewis' explicit attempt to attend to principles of social justification. While this work does address theoretical questions, it does so in a manner common to overviews of discipline and classroom management systems: in relation to the author's own central framework, rather than questioning how systems relate to necessary requirements of education in a democracy.

This contemporary text provides both a review of the range of approaches taken to classroom discipline and a way of evaluating systems through its own unifying framework for understanding and classifying classroom management techniques. However, such an analysis only addresses goals of discipline related to classroom management, and such frameworks can inhibit a reader's awareness of broader goals against which to measure the effectiveness of classroom management systems.

The preface suggests that the book will not be engaging with underlying issues of authority in a progressive way: 'Student misbehavior becomes a problem when students ... challenge the authority of teachers'. Either this initial statement endorses an approach in which teachers claim authority in all realms at all times, or is written with less attention to conceptual detail than is desirable in a book which engages with the theoretical grounds for discipline, and describes classroom management as a 'purposeful philosophical, ethical, and theoretical code of conduct' (p.xi). Such an example is typical of the attention given to the justification and purpose of school discipline beyond classroom management in works that evaluate and summarise different classroom management systems.

This text, aimed at practising or beginning teachers, introduces the notion of 'acceptable' student behaviours: language very much associated with top-down, teacher-centric management techniques. McDonald conducts his overview from the perspective of the 'Positive Learning Framework', a 'model of delivery for teacher educators, based on qualities identified as necessary for growth'. From the perspective of meeting the goals identified earlier in this thesis for school discipline, this does little more than reframe techniques aimed at order within a positive psychology framework. It remains an order-focused agenda, rather than a drive towards improved understanding of justified authority, and consequently, as shall be defended in greater detail in chapter four, democratic citizenship. McDonald lists 'assumptions and beliefs in this text' (McDonald, 2013, p. 24). One is that 'The goal of classroom management is to promote quality learning environments that foster self-discipline and personal responsibility'. McDonald's 'self-discipline' appears not to entail the notions of discipline above for which chapter one of this thesis argues, and to be much closer to the notion of personal responsibility used in his book. Once one considers the broader goals of school discipline, the lack of commitment to an underlying principle of good social education in a text such as this becomes striking, and as an important theoretical requirement for educational institutions seems too significant a principle to devolve to the judgement of individual, non-expert school boards.<sup>11</sup>

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<sup>11</sup> Chapter six of this thesis explores the limitations of which aspects of schooling can be devolved to sub-communities or democratic decision, and which principles are necessary for educating equal citizens in a secular democracy.

The overarching goal in McDonald's text, the 'Positive Learning Framework' (PLF), appears to draw on positive psychology's emphasis on personal growth for another composite approach in which a teacher can choose a response they consider appropriate from a range of options. There is some parallel in how choosing from a restricted range of recommendations is analogous to the constrained 'choices and consequences' approaches often given to students: such choices are framed as 'free', yet are heavily constrained by the environment. The beginning teacher's choice will be similarly constrained; and yet *Classroom management* links to Alfie Kohn's work as a resource, Kohn generally being cited as the standard-bearer for criticism of such situations. His work is presented as being an alternative perspective, so this reference can be read as the admirable recognition of a critical voice rather than inconsistency, but when new and learning students (such as the presumed audience of teachers-in-training for this work) are exposed to a message that appears coherent, consistent and effective for the majority of their time with the book, a link to alternative material for 'further reading' seems more likely to lead to cognitive dissonance and rejection than a fair hearing for an alternative position.

McDonald does give a thorough treatment elsewhere to a comprehensive range of disciplinary approaches, and the focus highlighted above is not a critical flaw, as the author will have been aware of how an educator's use of a course book can have as much or more influence than elements of its organization. However, it is an opportunity to highlight how a text can influence through omissions, focus, and indirectly-suggested values. This tension over choices opens up complex questions about freedoms for students in formal education which are not addressed in the text. To have some position on this question is necessary to make an informed choice of discipline framework, or even of classroom management framework, and yet a comprehensive textbook on the subject does not address the problem. McDonald does claim that it is essential 'that your selected theorists match your philosophy' (McDonald, 2013, p. 289), but this is in a context where 'philosophy' is more likely to be read colloquially as 'style', or as values that are personal preferences rather than necessary commitments to a coherent educational vision. Given that short-course and postgraduate routes into teaching do not typically feature compulsory classes in the philosophy of education, it is implausible to wave these issues away as something that should already have been covered elsewhere.

*Classroom management* is typical of other works that are positioned as primers and overviews. It explains the reasoning behind certain systems and philosophies, yet does not anchor them to specific positions on the purpose of educational environments, which would make it easier for the reader to evaluate different systems in accordance with their success at meeting particular goals. Given the range of literature currently available, many readers are not going to be clear on what the goals even are.

Both texts addressed in this section illustrate different ways in which overview works on school discipline can have a clear conceptual framework, yet not delve as deeply into theoretical foundations as is necessary to clarify the link between disciplinary actions or frameworks and more broadly-scoped educational goals. While goals beyond the simple maintenance of order are often considered, the link to firmly-grounded theoretical positions is often strikingly absent.

In summary, individual theorists sometimes take positions on pertinent questions in their work, but the textbooks written for teacher educators appear to defer responsibility and let students make choices. Some student agency may be desirable, but choices about certain aspects of classroom management cannot justifiably be devolved when they might conflict with social values outside of the schoolroom. For example, if writing for a culture where extreme corporal punishment is commonplace, few other than relativists who believe local acceptability justifies such behaviour would desire to present an impartial menu of choices to new practitioners, and risk their untroubled selection of the *status quo*. The values that are generally undermined are subtler than this, and principled arguments about individuals' personhood or rights in our democracies need to be made, as is the focus of chapter six of this thesis. While it is practical to write in a manner acceptable to one's target audience, there is a point at which legal, constitutional, or national policy requirements of justice cannot be brushed aside for the sake of easier communication with a broader readership. While morality remains subject to reasonable debate, and is a field in which schools may promote various different positions,<sup>12</sup> there are questions of justice intrinsic to the structure of our societies which can be subject to discussion, but philosophically or legally require implementation. As with links to broader goals of education and schooling, there is little

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<sup>12</sup> This is further addressed in chapter six.

attention to these in summary works on classroom management systems. This lack of clear goals for discipline systems is problematic if one wishes to enable a critical evaluation of the ideas underlying any of the theories. If some of the positions are at odds with a core commitment of educating democratic citizens, this should be clarified. Allowing space for the maturation of a teacher's position and their selection of methods in line with that is admirable in principle, but there are necessary elements on which one must build, and in terms of social education for a democracy this baseline requirement of discipline systems does not appear to be widely recognized.

Presenting all — or any — beliefs in a value-neutral manner is not possible. An illustrative example might be 'teaching the controversy' over evolution vs. creationism, or whether or not global warming is occurring. Let us assume one holds a commitment to the philosophical principles that undergird science (e.g. non-contradiction and the preference of theories that best explain existing data), as one would hope a school that teaches science would do.<sup>13</sup> It is then inconsistent to teach that global warming may not be occurring (beyond a low level of probability) unless one highlights that holding this view is inconsistent with principles one is likely applying elsewhere — and that logical inconsistency itself is a problem!<sup>14</sup> One must be careful not to give undue weight to an argument because it is popular, well-lobbied, or attractive for some other reason when it would be logically incompatible with the rest of one's position. Similarly, principles of our democratic societies which a school professes to support should necessarily not be abandoned in the practice of classroom management if we are sincere in our adherence to them.

The next section of this thesis will argue the merits of different discipline systems, and highlight the strength of restorative discipline practices at meeting the goals discussed so far

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<sup>13</sup> The discussion of schools with extreme faith-based ideologies and their attempt to teach science from a different set of foundational commitments — such as that a divine force can violate the rules of logic and that two mutually inconsistent propositions can both be true — is beyond the scope of the discussion here, but is later addressed in chapter six.

<sup>14</sup> An excellent example of this recently arose in particle physics: results were obtained in 2011 and then replicated in 2012 of neutrinos travelling faster than the speed of light. The scientists reported their findings 'to promote further enquiry and debate'. Because these results would challenge a cornerstone of the standard model of physics, they considered it sensible to highlight possibilities of as-yet-unidentified errors rather than immediately to assume that their experiments were overturning such a well-supported principle, even in one very specific situation — whilst also being open-minded to the fact that this was definitely a possibility. In due course they isolated conditions that had caused an error in their data, but the caution with which they presented their findings was exemplary of a sensible way to do so in such situations (Stephens, 2015).

in contrast to most other systems. The regular absence in summary works of the links between discipline systems and the goals of education in a democracy may be a contributing factor to restorative discipline not yet holding a pre-eminent position among discipline theories in the view of education theorists. If individuals were more conscious of the justifications behind certain positions, then the strong synergy between restorative discipline and democratic citizenship might attract still further support.

### **Management systems that achieve goals beyond the maintenance of order**

This section introduces a survey of which discipline and classroom management systems are well-suited to achieving goals beyond the simple maintenance of order. Some are much more suitable for meeting the broader goals of good school discipline than others. There is an increasing body of evidence in favour of adopting progressive, developmental, and community-based discipline systems for the achievement of good classroom order (Bryk & Driscoll, 1988; DeVries & Zan, 1994; Goodenow, 1993), and many of these methods can also lead to other disciplinary benefits. It is hard, however, to envisage the production of an authoritative work evaluating the merits of different approaches to school discipline when understandings of the concept remain so clouded, as already discussed. Books which attend to social education and focus on communities, such as Macfarlane (2007), whose methodological approach to restitution has echoes of Kohlberg's Just Community (Power & Higgins-D'Alessandro (2008), may find themselves considered as a special-interest subset of disciplinary methods — perhaps 'community discipline'. This is because the philosophical argument about why certain types of management are necessary, and how they are justified, has not spread widely enough. Authors continue to write within particular branches of the field, but criticism of its entire shape, which marginalises certain types of work because of the social and political *status quo*, has not yet gained sufficient widespread traction. In spite of this, debates about discipline are increasingly attending to long-term social good. The public debate does seem to consider what might produce the best outcomes for children and for society as well as the easiest day for teachers.

In all school interactions, social learning is taking place (Jackson, Boostrom, & Hansen, 1993). Dewey describes society as an 'organic union of (social) individuals', and the school



as a 'mode of social life', where moral learning takes place through necessarily relating to others. With a reductive approach to the maintenance of order rather than good school discipline, many systems give social learning less attention than academic curriculum content. Because children draw lessons from what an adult models, giving reasons for taking disciplinary actions is of clear importance. It is undesirable to model that you can impose arbitrary restrictions on other people by your personal power, presuming that these are not values one would want children to reproduce in adult society. Explanations of why certain consequences are necessary are important factors in classroom management if teachers want to give the impression that they have authority for any other reason than their relative size and power. Only some classroom management systems address the justification of authority, an important component of school discipline.

Kohn (1996) has argued that many of the popular relational approaches of the late twentieth century (e.g. Cooperative Discipline, Discipline with Dignity) are still coercive practices, in which adults use consequences to control children in a similar way to punishments but more subtly. Rather than acquiescing to the teacher's order to do something, children are required to choose from a limited range of possible options. In these situations, the coercion is concealed by an apparent choice, although it is a restricted one. It is more socially educational for children to be overtly made aware that there are justifiable reasons for certain controls of everyone's behaviour in societies, rather than that 'might makes right'.

If it is part of the desired outcomes of schooling to maximise social as well as academic learning, one can look to adopt systems described as being in the traditions of developmental, democratic, and community discipline (rather than as holistically effective discipline systems, which might be more accurate). Much of classroom management is considered not to be educative time, yet some of this time can be used to develop children's social understandings, rather than repeatedly neglecting to engage their thinking and modelling the same examples of unjustified force.

Raising such issues for pupils' consideration can launch a number of further discussions, and further connecting the social and the moral may touch many unspoken needs. Many teachers might be energised by seeing clear moral elements to their classroom

management work. Sanger (2012) provides a number of references supporting the claim that the core of the current prevailing educational ideology is grounded in '*the task of education [being] fostering students' basic academic learning*' (Olsen & Sexton, 2009), and criticising that view. More learning takes place in the classroom than of academic material alone. Sanger highlights a growing body of literature addressing the lack of moral language in teaching and teacher education, and his quotation from Sockett and LePage is striking in juxtaposition with one of his own observations:

Teachers do not lack moral sophistication because they are not moral people. Just the opposite, most teachers are drawn to teaching because of their moral commitments.  
(Sockett & LePage, 2002)

Moral language is missing in classrooms, but it is also missing in the seminar rooms and lecture halls of teacher education ... the dominant discourse of teacher education continues to reflect a largely technical view that typically obscures teachings' [sic] moral dimensions, contributing to its impoverishment.  
(Sanger, 2012)

There is a gap between teachers' desire to work in the moral domain and the practical orientation to learning a craft of classroom management. Systems which promote a complete conception of school discipline beyond simple order maintenance go some way to addressing this, as many would see developing pro-social behaviour as morally good.<sup>15</sup>

### **Classroom management systems and their suitability for meeting the broader goals of good school discipline**

Given the lack of overt attention to overall educational goals in summaries of classroom management systems, a consideration of these systems with the fuller goals of discipline as a primary concern is enlightening: that is, how well do particular systems work to develop students' understanding of authority and its justification, thus preparing them for democratic citizenship, as well as maintaining order to enable effective learning?

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<sup>15</sup> The distinction between political authority and personal morality is made with greater nuance in chapter four, as there are conceivable situations where anti-social behaviour is morally praiseworthy. Reference to justified authority can render this transparent and open for evaluation in disciplinary discussions, as explored below.

There are hundreds of systems for understanding and managing classroom discipline and behaviour proposed in both professional and academic literature, and analysing every proprietary system individually would either be repetitive or address differences at an overly particular level — a side-effect of the authors' attention to detail in some overview works on classroom discipline systems. Many systems differ from each other primarily in matters of technique or emphasis, and the core (if sometimes unspoken) theoretical commitments remain similar. An analysis of different families of systems is more appropriate.

While different authors base the distinction between families on different aspects of discipline systems, certain characterisations recur, and are commonplace in the secondary literature. By way of example, in the texts analysed above Lewis considers the most salient feature of systems to be their focus: whether on the student, the teacher, or the group. Certain techniques sit more easily with certain foci than others, but the emphasis on who is the centre of concern is the key distinguishing factor between systems for Lewis.

McDonald's classification of systems more broadly concerns the locus of authority in the classroom: in his extensive summary table (pp.93–97) he describes the majority of systems as 'authoritarian', 'egalitarian', or 'mixed'. A division by power dynamics, as opposed to the nature of presentation, is well-suited to describing whether individual actions under certain families of systems meet the goals established above for classroom discipline.

A recurring assumption of such classificatory summaries is that the maintenance of order is a goal one can take for granted of each system: strengths and weaknesses of each system concerning this goal are often highlighted, and contrasted with the strengths of a system in other areas. Suitability for student social development is often framed as an optional extra, for educators that way inclined. This thesis, in contrast, considers educating students about the justification of authority to be a core component of good school discipline. When such development is considered alongside order maintenance as a goal of parallel importance, starker distinctions and some judgements can be made when comparing the field of theories.

McDonald's classification is helpful for highlighting pertinent factors here due to its division according to the locus of authority in the classroom. Systems considered autocratic or

authoritarian, often dubbed 'traditional' or 'realistic' (Canter & Canter's *Assertive discipline* (1993) is very commonly cited as a professionally-focused example of this type of disciplinary theory, with Skinner's behaviourism as the theoretical grounding) mostly leave the authority of the teacher unexamined: whether it is perceived to be maintained by age, the authority of the teacher's role, the established order, being *in loco parentis*, fear, or physical or emotional threat, the justification of both power and authority are typically left unexamined, and such systems do little to prepare students to understand the grounds for any similar authority outside of the particular society of school. There are many aspects of adult society for which such a system neither prepares students nor provides a model.

Systems which have some focus on the authority of the teacher, but where it is not absolute and the sole key driver of order, are characterized by McDonald as 'mixed methods'. These may have socially educational aspects, or may only be similarly authoritarian approaches to the above with more socially equitable veneers. Kohn highlighted examples of the latter type in his (1996) analysis of disciplinary approaches featuring concepts such as 'natural' and 'logical' consequences, or the offering of choices to students that are so constrained as to little deserve the label of choices at all. 'Would you like to do your homework, or would you like to spend the next hour in detention?' can be understood as a threat — an exercise of power — masked as a more egalitarian offer. Ellis and Tod (2009) claim 'consequence' is used as an alternative term to sanction in such situations (Dreikurs, Grunwald, & Pepper, 1998, p. 157; Hook & Vass, 2002; Lee Canter & Associates. & Canter, 1993), and suggests that the pupil is making a choice through their behaviour. It is conceivable that these choices are constrained to the point that such language is practically deceptive; 'natural' and 'logical' consequences especially so. Hook and Vass (2002) claim such consequences should be fair, reasonable (matched to the event), predictable, and in the best interest of a pupil making 'more useful choices'. 'Useful' stands out as underspecified here, as it does not specify by whose judgement the choice should be more useful: the judgement of the school, the state, the implementing teacher, and the pupil him- or herself may well be different. An additional problem with such methods is that a 'natural' consequence may still require intervention from teachers with a duty to protect students from certain types of harm. An unbending implementation of full 'natural' consequences can leave students subject to excessively damaging outcomes, such as emotional or physical harm that persists for many

years as a result of a small infraction or misjudgement. Logical consequences are teacher-defined, and for Kohn (1996) the choices that lead to them are only pseudo-choices: one does what the teacher wants, or faces consequences imposed by *his or her interpretation* of logic, nature, and fairness. Such systems are insufficiently open about the grounds for their claimed authority to best prepare children for reasoning participation in democratic life. Some of these techniques may feature more genuinely democratic features (e.g. Ginott's (1972) respect for individual dignity, Dreikurs' (Dreikurs, Cassell, & Kehoe, 1972) 'Democratic Teaching'), but they generally do not relinquish the placing of the teacher in a privileged position above the student in ways that are not open to examination or challenge, and are thus not optimal environments for students' exploration of the grounds for authority in a democracy, and consequently attention to a full conception of school discipline.

The grounds for classroom authority can be obscured in a variety of ways that are common features of practicing classrooms. An emphasis on smooth transition and management (e.g. Kounin, 1970) keeps attention constantly diverted from the rules and restrictions in effect. An emphasis on co-operation (e.g. Albert, 1989) does not entail any less oppressive a power dynamic when one has to co-operate with what could be a repressive or dictatorial regime. Co-operation does not entail an equal or proportional respect for different parties' goals. Nelsen, Lott, and Glenn's *Positive discipline* (2007) is a good example of a system that works towards student development, but neither examines nor emancipates students from the authorities underlying the teacher's control of a pupil's activity. Helping students develop a sense of meaningful agency and capability may serve to mask the existence of systemic restrictions of which they — and indeed their teachers — may be unaware. Similarly, Kagan, Kyle & Scott's *Win-win discipline* (2004) addresses co-operation, and the development of self-responsibility — but rules and restrictions of the school environment determine how far pupils can have agency, and thus the extent of their responsibility. In a democratic environment this might be considerable, but in other environments a student may merely be responsible for how well they co-operate with and meet a set of unbending, externally-imposed standards. Mixed methods remain highly susceptible to authoritarian implementations as the teacher can retain considerable authority, and attention to pupil choice can be cosmetic and insignificant rather than the provision of meaningful agency.

Egalitarian methods, by McDonald's classification, are those which leave more space for open consideration of why instructions should be followed, or why certain people or positions should have authority. This has the potential to enable active, participatory citizenship as opposed to passive subjection to a system. If one is unaware of being subject to particular forces, it is harder (or impossible) to evaluate, question, or challenge them. Systems in this family have greater potential to educate about citizenship as well as maintain order.

Curwin and Mendler's *Discipline with dignity* (1988/2008) considers individual situations, rather than applying unbending rules; an approach naturally conducive to the consideration of context, and the ethics behind the system. Teachers are also expected to model classroom values, demonstrating a certain level of equality before social requirements. Kohn's aforementioned suggestions feature class meetings, and a clear idea of a community 'constructing learning that moves students to deeper levels of thinking' (Kohn, 1996). This is a consideration to which this thesis will return.

Labelling a system as 'democratic' does not necessitate that it has all the features of a democratic adult society, and significant differences between schools and adult societies will be examined in chapter six. The relevant aspect for the development of good discipline is whether such systems expose the justification of authority for evaluation and debate. Dreikurs' model is described as democratic teaching, but categorized as 'mixed' by McDonald; one can educate for a democracy without fully modelling democratic values. Gathercoal's *Judicious discipline* (1993) is classified as 'mixed'; even though it is focused on preparing for a democratic society (it is founded on the principles of the US Bill of Rights), it promotes adherence to law rather than helping students develop an understanding of the justification of the authority that the law bears. Evaluation of just authority requires not accepting something simply because it is a legal requirement, but rather being aware that some laws may not be well-justified.<sup>16</sup> For example, the Apartheid laws in South Africa may

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<sup>16</sup> The conflation of the legal and the right can be considered as a stage of moral thinking beyond which one can develop. This is specifically addressed in chapter seven by reference to Kohlbergian frameworks for understanding cognitive moral development.

be considered to have been unjustified on the grounds of not treating all citizens as free and equal — one of Gutmann’s democratic principles, as explored below.<sup>17</sup>

Democratic systems not only recognise that there is a social and governmental context to school discipline, but also directly engage with it. The primary authority they give to democratic process would be in tension with unjustified authoritarian methods, though they do not necessarily explore the justification for authority beyond an acceptance of the democratic vote. Restorative discipline systems, by contrast, bring the justification of authority into focus through their employment of restorative conversations and conferences. These typically explore why further actions should justifiably be taken, while still maintaining a flexibility in application that can serve to make such systems attractive to an increasing number of school boards and leaders. The nature of restorative systems, which are ideally embedded in a restorative school culture beyond a set of disciplinary practices, encourages conversations that explore the nature of restitution, and thus justice, and even the authority from which our obedience to justice springs. These features make restorative systems superior for promoting social education — among both students and adults — and thus, combined with the data that support their excellence at maintaining order, suggest that they deserve primary attention in the pursuit of meeting the goals established in chapter one for a school discipline system. Other systems can create opportunities for exploring the nature of school society and the justification of authority, but restorative discipline inherently features and encourages such exploration. It is restorative practices that currently have the most promise for meeting the goals of school discipline for citizenship education.

The following chapter shall outline the nature of restorative discipline systems and their current implementations in New Zealand, before the argument progresses on how to develop such systems to meet particular educational goals still more effectively.

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<sup>17</sup> This thesis will go on explicitly to accept the laws of the nation-state as a necessary limit upon proposed modifications to education systems. This does not, however, mean that the justification of such limitations should not be overtly considered or challenged.

## Community discipline for social education

This section provides an introduction to why community and restorative discipline systems provide a superior education for democratic participation. Social education for a democracy is politically charged in itself. Societies are not morally neutral entities, and a state can educate its citizens to learn to fit into — or be fitted into — it; to be subject to it, and conditioned into its reward and punishment systems, or to develop some sort of critical understanding and be able to evaluate and potentially modify it. While some societies work more smoothly with a citizenry that is not as understanding of the exact power structures by which they operate, such as corrupt oligarchies, this thesis addresses democracies (specifically New Zealand) where free and equal participation of citizens in democratic governance is an important ideal. This involves understanding the justification of authority, as does good school discipline, and this shall be further explored below. A citizen educated in the means of social interaction in which he or she will participate in adult life is better prepared for it, and more able to fully engage. To deny the value of learning how future adult citizens live together is to deny the role of education as preparation and practice for adult life, as this includes society as well as the factual and skills content of curricula.

Work on discipline, classroom management, and schooling as social and community processes has been steadily increasing in influence since its inception. Kohn's 'attempt to overturn the whole field of classroom discipline' brought these ideas to audiences beyond the specialist in *Beyond discipline* (1996). Works in this tradition evaluate learning environments as communities, where the recognition and inclusion of the points of view of other individuals is important; fertile environments for the discussion of politics and justice. Group discussions of rights, co-operation, and restitution of harm done in the community can be common occurrences within such systems, as the following chapters shall explore. Community-based systems' specific suggestions can feature geographical, cultural and philosophical differences: Margrain & Macfarlane (2011) make suggestions tailored to Māori communities, Gathercoal (1993) to the USA, and, while many such systems are based on social constructivist pedagogies, Summerhill and Sudbury Valley democratic schools follow discovery-based models. A comparative study of these approaches found 'far more of core importance in common to many systems than significantly different between them' (Watson & Battistich, 2006). Community approaches typically place emphasis on:



- Relationships as central to the community,
- Relating to each student as an individual.
- A positive, developmental view of children.
- Recognising students are embedded in a social context.
- A student-centred curriculum integrated with community values; and
- ‘Minimal or noncoercive disciplinary strategies’.

(Watson & Battistich, 2006)

Whether in group settings or a one-to-one discussion between an educator and a pupil, these systems are much more suitable for exploring discussions of conflicting preferences and authority than environments which would be destabilised if students successfully challenged the decision of a teacher.

If a state, teacher, or administrator<sup>18</sup> wants classrooms to prepare pupils for adult democratic life, there are then systems to assist with this. Educators that work within such models report high levels of classroom order, as well as more socially and morally aware environments (Watson & Battistich, 2006). Despite such positive outcomes, a number of potential difficulties may inhibit adoption of such methods, such as training issues, teacher habit, and existing school culture (Watson & Battistich, 2006). The next chapter addresses how a current policy initiative in New Zealand seeks to overcome these problems and develop such environments. There is also the issue of local political will; such systemic changes take root more effectively with active and continuing support from school management. Even outside of such systems, however, progress can be made. Contextualising the community effects of other classroom management actions can encourage thought about living in a social environment in similar ways.

Within such systems, there are different reasons underlying why an authority is considered to be justified, and different possible defences of the value of compromise and negotiation. The grounds on which these defences are founded, however, may not be being discussed in the classroom. Without a deeper examination of the political principles on which the best resolution to an issue for the community is determined, pupils and teachers may still lack understanding of what justifies the undertaking of certain classroom management actions. Unspoken values which one is bound to accept are coercive in themselves, as in Kohn’s

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<sup>18</sup> The level to which it may be ethically correct to devolve such decisions shall be addressed in chapter four on the different obligations of justice upon individuals and institutions, and chapter six on the consequences for local education governance.

argument about restricted choices and consequences above, and are still used to justify arguments in many community-based systems. This thesis goes on to propose a structure that encourages overt discussion of social contracts to open up educative discussions of justice, authority, and why school discipline actions might be fair. Over time, all parties can explore satisfactory justification for fair restrictions on their behaviour to the depth they desire. Through such a system, classroom management systems can meet the broader goals of good school discipline and contribute to social education for the development of democratic citizens.

### **Social contract theory and the justification of authority**

Social contract theory can serve as a model from which to begin to explore conflict and co-operation because it is an approach to political theory that is simple enough to understand at a basic level, but one that can be developed to help students understand the justification for the authority of governments and schools to some depth. It can be presented at a level that enables children to understand and participate productively in the discussion of democratic principles and requirements. Social contract theories are explored in detail in chapter five, but introduced here in order to illustrate their place in the argument for citizenship education through good school discipline. The teaching profession does not typically appear to be explaining the justification for discipline, and needs to do so to dismantle the enduring conception of arbitrary power being imposed from an educator's chair. Without such explanations school discipline systems are not as socially educative as they could be, whether already employing community discipline methods or some other less transparent or responsive approach. When a child asks 'Why?' a simple framework provides something to look to for a swift and justified answer. To answer simply that the organisation of the state or school decrees it is hardly an answer in keeping with the exploratory and open ethos behind such systems, but one that many would struggle to find a way beyond without some simple principles on which to draw. If one wanted simply to educate, for example, citizens who already accepted the principles of American democracy, one could fall back on the rights granted by the Constitution as in Gathercoal's system; but in many democratic societies these rights and their justifications are under ongoing debate and discussion. What grants the Constitution the right to be the foundation of political values? To close off conceptual exploration with a simple decree such as this is a weak stimulus for

political inquiry as it stands on legal rather than philosophical grounds. This is still ultimately coercive, although at a level further removed than before, if exploration of these philosophical grounds is not permitted and encouraged until a satisfactory justification is understood. If someone does not understand why a certain principle is valid or necessary, it is little better than an arbitrary decree if they are forced to adhere to it.

Discussing social principles also allows for the evaluation of potentially unjustified forces, such as the extent to which teachers and adults have authority over children's choices. Through exploring ideas of the social contract pupils can come to understand the justification of restrictions on their desires, rather than being expected to obey them without question. This can thus contribute to a fuller conception of school discipline by enlisting pupils' understanding rather than coercing them.

Discussions to support school discipline can be much less complex in practice than they might sound in the abstract. For example, a teacher might trace justification for upholding a classroom rule as far back as a wall-mounted classroom contract, leaving the impression that the right to alter it ended with the conclusion of the discussion in which it was agreed. Such negotiations often take place at the very start of a school year, when a teacher might secure agreement to any number of things from pupils still unsure of a new environment. If a teacher still forces a contract's use when the collective will is to change it, this is hardly any less coercive than insisting on absolute authority. If the justification beforehand was the collective will of the class, then the contract's justification might be undermined when the will of the class has changed. Discussing why it might be right to change it is a step towards conflict resolution systems in democratic schools, where such regulation becomes an exercise in practical politics. Taking the time to go over again why the class agreed not to play football in the classroom, and ask whether they still think that is fair, is likely to have a more lasting effect than a simple injunction from doing so when the reasoning behind the rule is now disputed or has been forgotten. Sometimes the reasoning can be very simple, and a reminder thereof is all that is really necessary: pointing out the glass fish-tank, the breakages last time people played in the classroom, and the closeness to the playground might elicit renewed agreement that this is a reasonable rule; or alternatively the mention of some previously unconsidered point, the address of which might resolve the dissatisfaction. If other children are restricting a group's access to the ball games area, then

a simple discussion has uncovered the root of the problem in a way that a hurried and unresponsive injunction would not have done.

Situations can be explored and explained to different degrees at different times, so as not to interfere with the timetabled work of the school. This is similar to how restorative conversations can either be brief and informal or longer and more structured, as described in the next chapter. In day-to-day disciplinary interactions a swift resolution can be sought, with fuller discussion postponed to a regular gathering such as form time if sufficient agreement is not reached. In time, the knowledge a teacher will strive to be fair begets its own short term compliance, which he or she would be wise not to abuse lest it be proved unjustified and undermined. The immediate resolution of issues can remain swift enough to deal with problems efficiently, while follow-up conversations can further engage pupils, discuss justifications for a proposed solution (encouraging reason and not blind obedience), and be transparently based on principles that reflect the values of a school society.

These discussions can form part of a discipline that engages participants' reasoning and motivation, develops their understanding of just authority, and maintains effective classroom order — key components of good school discipline.

Many similar discussions currently take place under restorative discipline frameworks, on which the next chapter focuses. A recent education policy in New Zealand promotes the introduction of such approaches, and, while the motivation for such a policy might in large part be for effective classroom management, the potential for social education as part of good school discipline is considerable. With the addition of political thinking to disciplinary discussions, both teachers and students can develop their understanding of fairness as separate from personal morality: a socially-aware understanding of how to work with others and to compromise around irreconcilable disagreements when others hold values different to your own.

In conclusion, due to the confusion over what good school discipline entails, and the tendency of classroom management works to masquerade as complete coverage of the domain, disciplinary models and procedures are not well connected to goals beyond the simple maintenance of classroom order. Democratic, community, and especially restorative

approaches to discipline are well-placed to meet these goals, as well as having potential for development to do so to a still greater degree.

This thesis goes on to propose the development of a comprehensible means to explore the reasoning behind conflict adjudication that is compatible with a current policy initiative and looks beyond a presumption of unspoken shared values, engaging with sources of justification beyond a teacher's preference and the *status quo* of society. In a democracy, different interest- and belief-groups hold to different bodies of facts as well as values. As well as governments based on religious fundamentalist principles, Republicans and Democrats in the USA tend to hold radically different public positions on the reality of global warming and factors that contribute to gun crime. Developing an understanding of how to work across such divides, and from where an argument draws its authority, are increasingly important skills for negotiating democratic change. School discipline can contribute to this by developing pupils' experience in dealing constructively with differences of opinion and preference.

## **Chapter 3**

### **Restorative discipline and Positive Behaviour for Learning**

This chapter begins with an exploration of the theory of restorative discipline systems and their origins in restorative justice. It builds on the conclusions above that such systems appear well placed to attend to social education and the development of good school discipline as well as the maintenance of classroom order.

The second part of this chapter examines how such systems are currently being trialled in New Zealand under the 'Positive Behaviour for Learning' initiative, and whether this implementation is likely to adhere sufficiently closely to restorative theory to meet these goals effectively. It concludes that this implementation looks a promising foundation for transforming school cultures to better meet goals shared both by academic theorists and policymakers at the New Zealand Ministry of Education.

Given the desirability of a change to restorative practices, and the strong potential of the incoming system for implementing them effectively, the third and final part of this chapter introduces the argument that drives the remainder of this thesis: that while the incoming system is a significant step forwards, there is a way to develop the implementation of restorative practices that may provide significant further benefit at minimal cost beyond the Ministry's current commitment.

### **Restorative discipline**

Restorative discipline (RD) describes systems that prioritise responding to harm by focusing on how to repair the damage done rather than on assigning punishment. Emphasis is placed on the restoration of relationships rather than on retribution. It may be more useful to describe it as an approach to conflict resolution rather than a means of 'managing behaviour'; arguments deployed later in this thesis will weigh children's interests alongside those of teachers, and language which might suggest that the teacher has very wide-ranging authority over his or her students is not ideal. Restorative practices feature a responsive set of tools rather than top down, unexplained rules.

Despite differences in the detail of specific approaches, which shall be considered alongside New Zealand implementations below, some elements feature centrally in all the literature on restorative practices. Hendry, Hopkins and Steele describe the core features of restorative approaches through a series of contrasts in focus with what they term authoritarian approaches. They describe restorative practices as focusing on:

- Harm done rather than rules broken.
- Responsibility and problem solving rather than blame or guilt.
- Dialogue and negotiation as opposed to adversarial positions.
- Repair rather than deterrence.
- (Being) interpersonal rather than impersonal.
- Meeting needs and putting things right, as opposed to imposing fixed responses.

(Sellman, Cremin, & McCluskey, 2013, p. 265)

While elements of responsive and restorative practices can be implemented in a range of environments, they sit most easily within a school culture that embodies restorative values more broadly than in the realm of behaviour management alone. It can be challenging to encourage the valuing and development of relationships in cases of conflict when aspects of school policy might seem to ascribe little value to them in other situations. Restorative discipline is more an alternative way of thinking about discipline and behavioural issues than a toolkit for dealing with issues that arise — even though it can provide quite detailed guidelines for how to respond to certain situations. Use of specific language is no substitute for a genuine attempt to respond to a child's needs, and build stronger, more reciprocal relationships across a school community. RD is designed to support both a school's classroom learning and citizenship learning more broadly.

RD has a philosophy of collaborative and co-operative problem solving based on mutual respect and understanding. A number of excellent concise introductions exist,<sup>19</sup> and rather than replicate their work this section addresses the core features that inform how RD supports the education of democratic citizens. Rather than being a set of rigid, top-down practices, RD requires listening to the voices of those involved in a disciplinary situation, both teacher and student, and valuing their experiences and feelings. It is a system that

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<sup>19</sup> See Zehr (2002) for a presentation of restorative justice, Amstutz & Mullet (2005) for a concise introduction, and Hendry, Hopkins, and Steele (Sellman, Cremin, & McCluskey, 2013, pp. 264–268) for a booklet with a succinct summary of core ideas.

aims to encourage a sense of being one member of a community with other individuals worthy of consideration.

Guiding questions suggested for thinking about incidents in a restorative manner illustrate this:

- Who has been hurt?
- What are their needs?
- Whose obligations are they?
- What are the causes?
- Who has a stake?
- What is the appropriate process to involve stakeholders in an effort to put things right?

(Amstutz & Mullet, 2005, p. 14)

Answering these questions well often involves taking a third-person perspective to inform decision making. This is an important skill for political thought in many models of democracy. When individual questions are posed to an electorate, it may sometimes be ideal for all voters to vote in accordance with their own interests; but there are other situations in which an external party (such as a body designing the populace's education system) might desire participants to vote in the interest of the greater good, even when it does not work to their own immediate benefit. For example, a community of adults may have the opportunity to vote on the construction of a new dam, which will bring them immediate profit but destroy their environment (and their environment's profitability) in the longer term. An observer who values the interests of children and future citizens who are not currently able to vote would wish for the participants in this system not to vote merely in accordance with any personal desire for profit. The role of the elected representative can also be construed as requiring this ability: evaluating the concerns of a diverse electorate, and the likely consequences on different groups within it, rather than siding with a simple majority regardless of consequences. Thinking about incidents in a restorative manner is not about blame and punishment, but about the exploration, understanding, and collaborative implementation of solutions. The ability to consider



perspectives other than one's own is useful to the democratic citizen, and developed by the thinking required in restorative discipline.<sup>20</sup>

Non-restorative responses to a disciplinary situation may require less of a shift in thinking, but quick retribution often does not solve underlying problems. 'Restorative discipline helps misbehaving students deal with the harm they have caused to individuals and to the school community' (Amstutz & Mullet, 2005, p. 10). Restorative discipline demands active follow-up from those involved to repair any damage done, and is distinct in emphasis from many other methods of response. Confronting harm to repair it is forward-looking, as opposed to punitive action through which one dwells on the mistakes of the past. Sellman, Cremin, and McCluskey claim that through RD pupils learn 'social responsibility, and interpersonal and problem-solving skills' (Sellman et al., 2013).

The problem-solving skills used are likely to require both empathy and logical thought, concepts which are analysed later in this thesis. It will prove pertinent to highlight how presentations of the goals of restorative practice often focus on empathic and emotional development, with the cognitive and analytical appearing secondary considerations. This description by Amstutz and Mullet is representative — the goals of RD as they see it include the following:

- Understand the harm and develop empathy for all [parties to a conflict]
- Respond to the needs on both sides
- Community reintegration
- Create caring climates
- Change the system where it contributes to the harm

(Amstutz & Mullet, 2005)

Only the last of these points necessarily involves deployment of logical reasoning and thought about political structures as a primary concern. The others may be interpreted as primarily requiring emotional connection.

RD arose from restorative justice practices used initially in the field of criminal justice (Amstutz & Mullet, 2005, p. 3), and it is worth drawing a distinction between RD and restorative justice because of significant differences in the power dynamics to which

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<sup>20</sup> This claim is further defended by arguments from empirical data in chapter seven.

participants are subject. New Zealand is considered ‘world-leading’ (Carruthers, in Sellman et al., 2013) in the implementation of restorative conferencing in response to criminal activity, notably in the youth justice system, and while such recognition is given to non-indigenous implementations it is notable that such systems are highly analogous to traditional Māori approaches to justice through community restoration — Amstutz and Mullet (2005, p. 52) note specifically that circle processes first entered the field from ‘certain indigenous communities’. The Family Group Conference was introduced to New Zealand youth justice after the Children, Young Persons, and their Families Act 1989 (Sellman et al., 2013, p. 23), and subsequently restorative justice conferencing was first introduced into New Zealand schools in the late 1990s following a Ministry of Education programme called the Suspension Reduction Initiative. This initiative was a qualified success: it was followed by a reduction in suspensions, as was desired (Sellman et al., 2013, p. 28), but the number of ‘stand-downs’<sup>21</sup> increased, which rendered the results somewhat equivocal (Drewery, 2007). Further pilot projects involving restorative practices have followed (The Restorative Practices Development Team, 2004), and the Ministry is now embarking on the largest-scale introduction of such techniques yet nationwide, as described in the following section.

While they serve the different goals of education and criminal justice, the principles behind the practice of RD and restorative justice are similar. Both address harm that has been caused, though RD does not require an event to have been illegal for a restorative conference to be implemented. A noteworthy distinction between the two is that restorative justice is an alternative pathway to the threat of serious legal consequences. This can be seen as a problem in a manner analogous to Kohn’s criticisms of ‘choices and consequences’ in school discipline as discussed in chapter two: a restricted choice forced upon one by a powerful body is far from a free choice, whether such restriction is by a schoolteacher or by a court of law. Pupils may, however, perceive the consequences in a school community to be just as serious as those of the law, and restorative conferences in schools — and restorative practices in general — may equally be practically difficult to opt out of. The threat of the law is not necessarily more significant than that of parents or a school community in the eyes of an individual child. Furthermore, in a well-run restorative

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<sup>21</sup> A disciplinary alternative to suspension or expulsion which was newly available to schools at the time.

conference the emphasis should be on the fixing of problems rather than the avoidance of punishment, and so the different consequences of a failure to find resolution should be of little significance. In both systems, an encounter between the harmer and the harmed — or the offender and the victim in justice terminology — is important for developing understanding of the perspective of others involved in the incident. Cremin (Sellman et al., 2013) highlights the importance in both settings of correctly-handled conferencing to facilitate genuine engagement, rather than a tokenistic response in a manner desirable to the facilitators, and quotes Braithwaite (2002, p. 131) about the educational goals of such conferences that this thesis shares: that ‘disputing over daily injustices is where we learn to become democratic citizens. And the learning is more profound when those daily injustices reveal deeply structured patterns of injustice.’

RD in New Zealand schools is increasingly recognised by practitioners as a means of relationship management rather than behaviour management. This requires cultural change, and not just one-off staff training on classroom management (Drewery, in Sellman et al., 2013, p. 41; Thorsborne & Vinegrad, 2008). Drewery argues that a system needs to develop within each school and its people, and consequently that restorative practice will look different in different environments. Sellman, Cremin, & McCluskey (2013, p. 3) claim all models of RD are culture-bound, and should be built from the bottom up, by communities assessing their own needs and resources. This requires those involved with a particular implementation of RD to understand its principles, rather than simply to follow a nationwide prescription. There is substantial guidance available on this, much of it local to New Zealand. Amstutz and Mullet (2005) is mentioned above as a concise treatment of key issues; the paired volumes by Meyer and Evans (Meyer & Evans, 2012a, 2012b) provide detail for school leaders and teachers separately; Sellman, Cremin & McCluskey (Sellman et al., 2013) provide contemporary perspectives and debate; and Margrain & Macfarlane (2011) describe a number of New Zealand implementations as part of broader commitments to effective social transformations.

Key to the practice of RD are restorative conversations and restorative conferences, the latter being more extended and formal versions of the former. These are structured to develop the thought and empathy of those involved in an incident for:

- The perspective of others involved
- The effect of the actions
- How a situation might be resolved
- Whether steps can be taken to stop similar incidents from recurring, and
- How harm may be repaired.

Restorative conversations can be formal or informal, from spontaneous chats to discussions in a classroom group to carefully pre-planned conferences involving communities beyond the school. Staff are trained both on the principles of what such conversations are trying to achieve and on specific ways of doing so, sometimes through the deployment of specific scripts to prompt the desired forms of reflection. *Kete 2* of the New Zealand Ministry of Education's Positive Behaviour for Learning training pack consists of detailed training guidelines for how to develop and structure restorative conversations ('Restorative Practice Kete Book Two / PB4L Restorative Practice / Welcome - Positive Behaviour for Learning', n.d.). These help to provide significant guidance in both the micro- and macro-aspects of restorative practices, due to the desire to facilitate whole-cultural change rather than scripting isolated encounters that may prove less effective without a supportive environment. RD is supported by a school culture which encourages discussion of why disciplinary outcomes may be justified, actively listens to and respects children's positions, and involves them in a healing process rather than forcing solutions onto others in a top-down manner. This thesis argues that such discussion and explanation of fair outcomes in disciplinary situations can meet the second goal of good school discipline, education about justified authority. Chapter four explores the link between treating people as equals and the justification of political authority in support of this claim.

With respect to the first goal of school discipline, maintaining classroom order, there is a growing body of data in support of the effectiveness of restorative practices. While there is a considerable amount of anecdotal evidence,<sup>22</sup> this must be tempered by the knowledge that negative results in general are less likely to be widely disseminated, and particularly so on a topic where those involved with a new project are keen to hear supportive data. The 1999–2000 Restorative Conferencing in Schools trial showed positive changes in academic outcomes as well as in relationships, and the Suspension Reduction Initiative of 1990 and

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<sup>22</sup> e.g. The Restorative Practices Development Team cites Zammit (2001) concerning the remarkable drop in office referrals for discipline, fights, and truancy rates in one school over a three-year period after the implementation of restorative justice in their discipline system.

the Waikato project mentioned above (The Restorative Practices Development Team, 2004) both provide a substantial body of data in support of the effectiveness of restorative discipline practices (Adair, V., Dixon, R., New Zealand Ministry of Education Research Division, & Auckland UniServices, 2000). Policymakers at the New Zealand Ministry of Education now regard the body of evidence for RD as more solid and less grounded in anecdote (Corrigan, cited by Drewery in Sellman et al., 2013, p. 45), and this may well have contributed to the ongoing larger-scale deployment of restorative practices in New Zealand schools.

There are also supportive data from outside New Zealand. In Scotland, a pilot project on restorative approaches in 2004 involved 18 schools over a two year period. An evaluation of the pilot in 2007 claims that results were best where schools aimed to ‘improve school ethos by creating and maintaining positive relationships throughout the school community’ (Kane et al., 2007). Such data support the aim of transforming communities rather than teaching behaviour management techniques in isolation, especially when viewed alongside work showing punitive and zero-tolerance responses to misconduct to be ineffective in the long term (American Psychological Association Zero Tolerance Task Force, 2008). While the positive reports on restorative practices are not uncontested (see Acorn, 2004; Johnstone & Van Ness, 2007; Zehr, 2002 — though much of the criticism refers primarily to restorative justice rather than restorative practices in schools), if anything, the environment in New Zealand should be more fertile than in Scotland for such approaches, given how well community-focused approaches fit with traditional Māori values and means of conflict resolution (MacRae & Zehr, 2011).

Increasingly-widespread implementation suggests that restorative practices may be moving from being viewed as a progressive alternative system to a mainstream framework for managing conflict and improving relationships in schools. Society’s appetite for restoration as opposed to retribution increases from a low base, but the legal implementation and theoretical support for restorative processes are in place alongside an expanding evidence base in support of their efficacy. Ten to twenty years ago restorative practices and ideals were discussed as either new approaches or radical alternatives, whereas contemporary books refer to an existing ecosystem, ongoing trials, and ideas for how to build restorative elements into environments still not ripe for full transformation. Now increasingly seen as

‘field-tested (and) ... productive’ (Meyer & Evans, 2012a, back cover), restorative practices are becoming more widespread and gradually pushing against years of inertia and traditional methods in many staffrooms. The New Zealand Ministry of Education sought initiatives both theoretically well-supported and evidence-led for inclusion in their Positive Behaviour for Learning action plan, the focus of the next section, and restorative practices now well meet these criteria.

As argued in chapter two, restorative discipline appears one of the most effective frameworks for meeting the goals for school discipline established in chapter one: the maintenance of an environment conducive to effective learning, education about just authority, and developing the disposition to act in accordance with it. The following section on the Positive Behaviour for Learning initiative examines whether the way it is being introduced in New Zealand includes the features of RD necessary to meet these goals, what goals the policy writers appear to have in mind, and consequently if it looks likely to lead to an approach to school discipline that is a better education for democratic citizens.

## **Positive Behaviour for Learning**

In New Zealand, the Ministry of Education is currently overseeing the nationwide implementation of a new suite of behaviour initiatives in schools. This optional programme, called Positive Behaviour for Learning, consists of a number of different elements targeted both at promoting whole-community cultural change and at improving individuals’ teaching practice. Positive Behaviour for Learning (henceforth PB4L, as it is abbreviated) sets out its aims as to ‘address problem behaviour, improve children’s wellbeing, and increase educational achievement’ (‘Welcome - Positive Behaviour for Learning’, n.d.). While a frequent emphasis of the PB4L literature is on addressing school behaviour problems, it is not the sole goal of the initiative. It also aims to attend to other key targets of the New Zealand Curriculum including cultural diversity and community engagement (Ministry of Education, New Zealand, 2007, p. 9).

Restorative discipline (under the banner of restorative practice) is one strand of PB4L as part of a ‘school-wide approach to changing the culture and relationships within schools.’ The language of the policy documents, as presented below, suggests it is not being deployed

solely as a behaviour management technique. Restorative practice is a pilot project within PB4L that is considered complementary to the aims of school-wide cultural transformation, rather than as a compulsory element. It is currently (as of 2016) being trialled in 21 secondary schools,<sup>23</sup> with a view to expand to 200 in 2017 after further development and continuing evidence of its efficacy. The previous section of this chapter referred to the Ministry's positive view of the evidence in support of restorative discipline. It presents the benefits of RD under PB4L as follows:

- A calmer school environment, with less classroom disruption and more time for teaching
- An increase in the engagement and learning of students in the classroom
- Growth in relational and problem-solving skills, both for adults and students across the school community
- Improvements in attitudes and relationships across the whole school community

(‘What is PB4L Restorative Practice? / PB4L Restorative Practice / Welcome - Positive Behaviour for Learning’, n.d.)

Numerical data are presented in support of this in the 2013 PB4L update document with statistics on the improvement in stand-down rates, retention rates, and NCEA level 1 achievement rates in participating schools (Ministry of Education, New Zealand, 2013).<sup>24</sup>

PB4L arose from a desire to implement initiatives with a strong evidence-base to improve pupil behaviour. In 2009 the Taumata Whanonga behaviour summit presented New Zealand educators with a proposal for a number of initiatives to tackle growing behaviour problems in public schools. The rationale of the project was to take an evidence-based approach to addressing behavioural issues, on a whole-school basis, and to bring theoretical best-practice tools and techniques into implementation.

Evidence-based policy might appear to be a universally desirable objective, but it should be approached with caution in the context of educational policy. In some situations evidence is invaluable, such as when a policy is popular but claims to produce outcomes in contradiction with existing data. ‘Evidence-led practice’, however, can still be used to

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<sup>23</sup> These schools are primarily lower-decile schools which chose to opt in to this aspect of the PB4L project (an up-to-date list can be found on the [pb4l.tki.org.nz](http://pb4l.tki.org.nz) website).

<sup>24</sup> These data are, however, for the whole of PB4L School-Wide rather than for restorative approaches in isolation.

support certain agendas over others. Firstly, this can be through a constrained definition of what types of results are considered evidence. Some changes might be considered unquantifiable, and other variables which might be critical to those with different priorities may be left unmeasured. These can go unremarked as papers do not include an exhaustive list of the infinite number of possible variables that are *not* considered significant. Such incomplete measurements are not a neutral and objective tool when the definition of experimental limits can itself be loaded. Secondly, some outcomes are hard to quantify and consequently often lack supporting data. A careless or unscrupulous reporter can hold this lack of evidence up against a variable for which evidence is more easily collected, and claim that the latter is better supported. It is much easier to measure the improvement in test results that a policy produces than the increased warmth of a social atmosphere, for example. Also — critically — costs and losses in these hard-to-measure domains can be ignored when set against quantifiable gains. A policy that raises grades slightly but produces, for example, considerable resentment and hatred in schoolchildren may be lauded by some groups for tiny academic gains, while a cost that is arguably more significant proves hard to quantify and thus is not held up against it. There may be a tendency to look at discrete variables that are easily measured such as test scores, stand-downs, and suspensions rather than qualitative data in support of a more caring atmosphere and increased social consciousness. Despite this, a commitment to theoretical and practical support is preferable to the enactment of policy that flouts strong evidence against its efficacy, and alongside the recent campaign in the UK for evidence-led education policy (Goldacre, 2013) there is cause for optimism that academic thought is increasingly being given weight in the consideration of social issues with empirical outcomes — issues that are sometimes led by ideological commitments without any reference to data.

At the Taumata Whanonga behaviour summit, educationists selected from a range of the most well-supported potential solutions, and the collective implementation of these decisions now comprises the Positive Behaviour for Learning Action Plan.

PB4L Restorative Practice is described in the Ministry's literature (available from *Te Kete Ipurangi*: 'Welcome - Positive Behaviour for Learning', n.d. ) as 'based on a set of best practice tools and techniques to support a consistent and sustainable approach to managing positive, respectful relationships within the school'. The emphasis on a culture of care and



positive relationships may be informed by the results of Te Kōtahitanga studies (a programme to support teachers in improving Māori students' learning and achievement) focused on changing the ways teachers in particular use authority and the way they form relationships with students; there is strong groundwork in New Zealand to support the implementation of more democratic and responsive methods for dealing with conflict and misbehaviour. Restorative practice also supports the five key competencies of the New Zealand Curriculum (Ministry of Education, New Zealand, 2007), where the development of the self *within the community* is explicitly encouraged.

Restorative Practice was established as a PB4L initiative in 2011. 'Its value was evidenced in research commissioned by the Ministry of Education in 2012 on RP's impact on student engagement and the stand-down and suspension rates in New Zealand secondary schools' (Ministry of Education, New Zealand, 2014). Designed to complement the school-wide strand of PB4L (which also aims to transform the culture of whole school communities), the quotations below from the Ministry's own handbooks and update documents on PB4L highlight the reasons and justifications they present for promoting restorative approaches.

As a trial strand, Restorative Practice receives just half a page in the 2013 update document on the progress of PB4L (Ministry of Education, New Zealand, 2013, p. 26). This is because conclusions are still being drawn as to its efficacy, and data collection and evaluation is ongoing. The introductory material is, however, illuminative about the theory and reasoning behind its introduction:

Internationally, restorative practice principles have their roots in restorative justice, a formalised, relational response to offending and victimisation in the criminal justice system.

New Zealand schools have been using RP approaches in varying forms since family group conferences were introduced in 1989 as part of the Children, Young Persons and Families Act.

(Ministry of Education, New Zealand, 2013)

This acknowledgement of the roots of RD does not specifically show whether the focus of its implementation here is on just outcomes, cultural transformation, or techniques in classroom management. As McCluskey argues (Sellman et al., 2013), RD can sometimes be used primarily for behaviour management, rather than total cultural change. The following description contains some ambiguity:

PB4L is built on the foundation that positive behaviour can be learnt and that environments can be changed to improve behaviour and support effective teaching and learning. It also reflects the belief that schools play a major role in creating safe, healthy societies.

(Ministry of Education, New Zealand, 2014, p. 4)

‘Positive behaviour’ here is an imprecisely defined term. It could be understood as behaviour which fits with what the teacher wants, behaviour that is satisfying to both the teacher and the student, or behaviour that enables the school to better meet its stated goals. It could even be understood in terms of positive psychology, as behaviour that promotes happiness and demonstrates desirable cognitive activity in students such as learning and creativity. Readers of this document with a preference for authoritarian classroom management could understand ‘positive behaviour’ to mean that which supports a teacher’s goals even when they are in opposition to the interests or needs of a particular student. There is also no suggestion that behaviour is not the only important metric in this situation, and that cognitive activity is equally or more important. Conversely, one reading is that ‘positive behaviour’ is left for a school or teacher to define as suits their specific context and environment, and the concept is deployed here with minimal explanation to enable flexibility in its interpretation beyond the meeting of desirable behavioural goals.

There are, however, elements of behaviour management that should not be devolved fully to the preference of participant schools. Certain goals of our schools need to be mandated in accordance with overarching guidelines such as national policy or human rights. If positive behaviour is construed by one participant school as consisting of silent obedience to a teacher at all times, then this will be in contradiction with other principles that are accepted as part of a commitment to restorative discipline (such as conflict being managed in consultation with students, as opposed to done to them). Certain aspects of ‘positive behaviour’ can be devolved to the judgement of individual communities, but others are required for the overall programme to remain coherent, as described in the previous chapter. This conflict is further explored in chapter six with reference to the nature of special-interest and faith schools.

In contrast, the part of the above statement which expresses support of ‘effective teaching and learning (and) creating healthy societies’ fits well with the broader goals for discipline systems established above. It is possible that it is politically useful to leave room for

interpretation in some concepts deployed in such policies. That is, a tighter definition may be more clearly objectionable to some parties, and so it can be left to the detail of implementation work to clarify. A definition of what 'positive' or 'healthy' entails would likely be taking on an additional struggle unnecessary to the core goals of getting a particular policy implemented. There is enough elsewhere in the PB4L documentation to suggest a full understanding of the goals and prerequisites of restorative practice, as there are plentiful quotations that leave little room for the misunderstanding of critical elements, such as '(viewing) problems as problems, rather than people as problems ... Building and managing relationships .... resolving differences and conflict'. These suggest a commitment to a full formulation of restorative discipline that is consequently likely to meet the goals of a full conception of school discipline as expressed in chapter one. A different description introducing the same set of policy documents suggests this even more clearly:

Restorative practice is a relational approach to school life grounded in beliefs about equality, dignity, mana, and the potential of all people. The Positive Behaviour for Learning (PB4L) Restorative Practice model focuses on building and maintaining positive, respectful relationships across the school community and offers school staff best-practice tools and techniques to restore relationships when things go wrong. By building and maintaining positive, respectful relationships within a school, staff to staff, staff to student and student to student, issues are more easily managed.  
(‘PB4L Restorative Practice / Welcome - Positive Behaviour for Learning’, n.d.)

By including restorative practice as an element of PB4L, rather than a separate initiative, the congruence between the community development goals and simple behaviour management is tacitly acknowledged. The following presentation of PB4L principles appears more focused on specific behavioural outcomes, yet is not incompatible with placing community development at the heart of meeting such goals through programmes of restorative practice, and the third principle suggests at the very least an approach sensitive to classroom ecology, if not a fully community-oriented one:

PB4L is based on a number of principles:

- Positive behaviour is a prerequisite to improving the engagement and achievement of our children and young people.
- Positive behaviour can be learnt and difficult and disruptive behaviour can be unlearned.
- Individual children are not a ‘problem’ – we need to change the environment around them to support positive behaviour.

- Punishing and isolating children doesn't bring about long-term and sustainable changes in behaviour.
  - We need to concentrate on a small number of evidence-based programmes and frameworks that we know work.
  - There are no quick fixes. Behaviour change takes time.
- (Ministry of Education, New Zealand, 2012, p. 4)

The four key principles for PB4L: Restorative Practice (PB4L:RP) as presented in the 2013 PB4L update directly address social and community goals:

- Positive interpersonal relationships are a major influence on behaviour.
  - A culture of care supports the mana of all individuals in the school community.
  - Cultural responsiveness is key to creating learning communities of mutual respect and inclusion.
  - A restorative approach leads to individuals taking responsibility for their behaviour.
- (Ministry of Education, New Zealand, 2013)

While the meaning of 'positive interpersonal relationships' can be queried similarly to the meaning of 'positive behaviour' above, this set of principles clearly focuses on how cultures inform behaviour. As behaviour is the primary goal of PB4L, and Restorative Practice is an optional strand, this may seem to suggest that the cultural and social aspects of the policy are an optional part of addressing the 'behaviour problem'. Within the Restorative Practice materials it is made clear that this is not the case for schools managing situations with restorative techniques, but as not all schools participating in PB4L are adopting restorative practices this message may not be as strongly transmitted elsewhere.

The following quotations from the Ministry's *Introduction to PB4L Restorative Practice* illustrate that their understanding of what is necessary for restorative approaches to be successful is well-aligned with the academic consensus as described above.

Restorative Essentials embody the approach of the PB4L Restorative Practice model at the grass roots level - the everyday, informal actions that place emphasis on relationships, respect, empathy, social responsibility and self-regulation. The Restorative Essentials are a relational approach to effective communication skills and Restorative Conversations. A relational approach is grounded in relational theory (Downie and Llewellyn, 2011) and aligns with the five key competencies of The New Zealand Curriculum.

In addition to using the same language of relationships and respect, this policy directly references relevant contemporary theory on the effective implementation of restorative practices.

The Restorative Essentials supports teachers and adults within the school community to approach problems in a restorative way and equip staff with the skills needed to de-escalate situations successfully, enabling all staff to 'keep the small things small'.

Emphasis is placed upon treating the problem as the problem, rather than the person as the problem, and embedding restorative practices in everyday school life.

Restorative Circles support all staff and students to develop and manage relationships and create opportunities for effective teaching and learning time. They are a semi-formal practice requiring some preparation. They provide teachers with a range of processes to build relationships with and between all people in a school community, maintain those relationships, and enhance positive communication.

There are three types of Restorative Conferences in PB4L Restorative Practice: Mini Conferences, Classroom Conferences and Formal Restorative Conferences. Although they differ in formality, numbers participating and the severity of the related incident, all three types require the phases of preparation, participation and follow up, and all three use Restorative Scripts and fair process. Restorative Conferencing is a process that provides schools with ways to repair harm and restore relationships.

The PB4L implementation of RD adopts the standard model of three broad levels of restorative intervention, all well-structured, from the everyday conversation through the structured circle to the formal conference. This description of three levels of formality, some requiring little preparation and others a considerable amount, suggests an intention for such techniques to be used throughout a school as part of a culture of responding to harm-causing incidents rather than being kept for use only as an escalated response to major behavioural incidents. Emphasis is appropriately placed on the goals of Restorative Conferencing being to repair harm and restore relationships rather than to provide short-term fixes for behavioural problems.

It uses the stories of those involved in an incident and the people close to it (e.g. students, staff and whanau) to:

- explore what has happened and who has been affected

- hold those who have caused harm accountable for their actions
- provide support to those who have been harmed, and others involved.

This maps well onto the Thorsborne and Vinegrad formulation of Tell—Explore—Repair—Reach agreement—Plan follow-up for restorative conversations (Thorsborne & Vinegrad, 2008).

Schools involved in PB4L Restorative Practice receive:

- Restorative Essentials training for all staff within the school, including non-teaching staff
  - Restorative Circles training for teaching staff
  - Restorative Conferences training for selected staff
  - resources and reference material to support the implementation of PB4L Restorative Practice
  - ongoing professional support.
- (above quotations all 'What is involved? / PB4L Restorative Practice / Welcome - Positive Behaviour for Learning', n.d.)

The policy acknowledges the need for effective training of staff to implement restorative techniques, and how such practices can 'create opportunities for effective teaching and learning time'. The training and ongoing resourcing offered is a clear attempt to build lasting cultural change rather than a brief nod to implementing recommended practices with insufficient foundation.

The PB4L formulation of RD appears both to fit contemporary theory and feature the key practical elements it requires. It acknowledges the need for effective training and preparation, and appears prepared to avoid the pitfall McCluskey highlights (Sellman et al., 2013, chapter 13) of underprepared and isolated areas of implementation failing. The stimulus for the PB4L initiative was the desire for an evidence-based system to assist with behaviour management, but the policy itself emphasises the role of cultural change in restorative discipline, of which improved behaviour is a by-product. While the principles of the RD section of PB4L are much more focused on cultural transformation than the overall statements of PB4L goals, in combination they closely reflect the changes recommended by academic research on restorative discipline theory. PB4L policy provides sufficient specificity on critical components of RD that necessary cultural changes should not be overlooked in the implementation of recommended techniques. PB4L:RP looks to follow academic models

of restorative practice sufficiently closely to meet the goals initially established for good classroom discipline: the maintenance of an environment conducive to learning, and the education of students for democratic citizenship.

While some participating teachers may consider better 'behaviour management' to be their primary goal for the policy, it is clearly not the sole goal of PB4L. While the specific disciplinary goal of educating about just authority and thus preparing students for democratic life is not specifically addressed in the purposes of PB4L:RP, this should be compared to the similar omissions in the specialist comparative literature on the purposes of school discipline that was examined in chapter two. When even works such as these are unclear or incomplete on the goals of the field beyond behaviour management then it is unreasonable to expect a particular policy document to address this. Restorative practices are an excellent way to enable such education even when not specified as a primary goal of a policy, and the requirements of PB4L:RP seem well-suited to enabling schools to better meet these goals.

The principles laid out in the policy documents establish some elements of RD that are considered critical under PB4L, and not open to local interpretation. As argued above, balance is required between a desirable bottom-up cultural responsiveness and principles which are necessary for both effectiveness and consistency with a state's broader educational system and goals. As the PB4L:RP pilot expands nationally it will become clearer how variety in implementation is apparent in practice. In the early stages of policy implementation critical features of restorative practices are specified that should safeguard core principles, and thus begin to encourage the desired cultural shifts correctly. The Ministry's restorative practice training materials and policy documents provide clear guidance on this, and it may become clearer in time in which aspects schools might benefit from more local sensitivity. Such nuances are not necessary components of the central policy statement beyond the stated commitment to responsiveness to local communities. The PB4L website promotes 'a consistent best-practice approach across the whole school community that aligns with the school's shared values'. Which values may be local, and which values are necessarily global for our democracy is an important issue to note, and one covered in detail in chapters four and six. In some situations, for example the specifics of running restorative circles, guidelines and values are mutually agreed ('Restorative Practice

Kete Book Three / PB4L Restorative Practice / Welcome - Positive Behaviour for Learning', n.d.). Exploration of the scope of these values, and what may or may not be open to democratic modification, is something that the suggestion for the development of RD below should only aid, and promote better understanding of in our communities.

In summary, underspecified concepts in policy documents can be helpful: core elements can be formally established, but elements of their interpretation left to particular implementations and best-practice guidelines. The policy extracts above suggest that there is enough specificity in PB4L policy to establish the important elements of restorative theory, and avoid pitfalls such as piecemeal implementation that correlate with less successful outcomes.

The detail of the policy and the guidance *ketes* is clear on aspects necessary to implement restorative practices effectively according to the latest theory, if slightly under-detailed on why they are so. The evidence that RD is effective for behaviour management was clearly important for the genesis of this policy, but a positive aspect of the documentation is that it is written in a way that does not describe the other benefits only as bonuses of lesser importance. Like the literature on school discipline systems, the policy documents do not specify further goals of restorative practice that contribute to good discipline, or how exactly this contributes to democratic citizenship. This avoids potentially challenging content that is beyond the scope of a practical document, and focuses on widely-accepted goals of school discipline that will be well-regarded by a large audience. PB4L looks well-placed to introduce restorative discipline in a way that will meet the primary goals established above for school discipline, supporting behaviour management through cultural transformation as well as contributing to the development of socially-educated citizens — even if this last element is not presented as a primary aim of the policy. Given that PB4L policy documents are available to be read by the general public and that the broadly-stated goal of PB4L is improving pupils' behaviour, it is notable that the Restorative Practice elements of the programme are as minimally focused on behaviour and as much on cultural transformation as they are — many readers may not initially consider such transformation to be a primary concern, but this emphasises the importance of not seeing a supportive culture as an optional extra to successful restorative practice.



## **A proposed extension to restorative discipline practices**

The above analysis suggests that PB4L should be an effective means of introducing restorative practices to New Zealand schools, which should in turn enable the better meeting of key goals of school discipline: the maintenance of good order, and the development of pupils' understandings of the justification of authority. The next chapter of this thesis explicitly draws a link between this latter goal and education for democratic citizenship. While the PB4L policy documents do not specify the goals of school discipline, some restorative theorists refer more closely to these goals than the overview literature on school discipline does. For example, 'A primary goal of schools in a democracy is to develop a community of responsible citizens' (Amstutz & Mullet, 2005, p. 18). While 'responsible' is more nebulous than 'democratically capable', it is clear that at least some RD theorists recognise goals of school discipline beyond the simple maintenance of order.

When this new policy initiative is considered alongside these overarching goals, there appears to be the opportunity for an extension to the implementation of restorative practices that could provide a still more effective education for democratic citizens. The remainder of this thesis will make this argument — that the incoming models of restorative discipline could still better serve our students by greater attention to the rational consideration of restoration, as well as the taking of empathetic or emotionally reparative perspectives.

It is important to consider rational and logical factors when attending to the repair of harm, rather than just the feelings of those involved. The next chapter shall explore what exactly these factors might be, but it can be argued here that emotional restoration alone is insufficient. This is necessarily true if fairness in the distribution of goods other than happiness or other emotional states has a value that is not entirely subordinate to people's emotional responses to it. If repairing feelings and relationships alone were adequate, then injustices in relationships of which people were happily unaware would be acceptable. This would be inconsistent with the critical approach to citizenship education explored in more detail below. If a student stole someone else's property, and then experienced deep emotional suffering when his or her stolen goods were taken away, then a purely emotional restoration might justify their return to the thief. This problem is somewhat analogous to

Nozick's utility monster (Nozick, 1974), where a utilitarian might face the problem of sanctioning a vastly unequal distribution of goods if one person were to receive disproportionate benefit at the cost of others. Without rational concerns of fairness featuring in restorative processes, there is the possibility of excess and injustice in attempting to restore someone to their prior emotional situation. If one person would only feel better by enslaving those who had wronged him, and perhaps others besides, then this situation would benefit from the rational discussion of fair outcomes as well as the empathetic acknowledgement of the emotionally distressing situation. Not all situations can be perfectly or even adequately restored, but adequate resolution requires discussion and reference to principles that are not solely concerned with the emotional impact of the changes. This is especially clear in the case of conflicting claims about what restoration should involve by the parties involved: an attempt to make an impartial judgement in such a case requires rational engagement with rational principles.

The language used by some theorists in RD privileges the emotional response over the rational. See again the following quotation from Amstutz and Mullet:

- Understand the harm and develop empathy for all sides of those involved
  - Respond to the needs on both sides
  - Community reintegration
  - Create caring climates
  - Change the system where it contributes to the harm
- (Amstutz & Mullet, 2005)

The final point, and elements of the second, seem exceptions to an emotional focus. Developing 'empathy for both harmed and harmer' is listed as a primary part of the authors' goals (p. 10), along with a central focus on community. While they write of an 'ethos of care', they mention the desirability of 'self-reflection', but it is unclear what form this should take. The PB4L approach to RD is less clearly focused on the emotional over the rational, though the example interactions in the training literature appear strongly focused on empathic connection. *Kete 2* ('Restorative Practice Kete Book Two / PB4L Restorative Practice / Welcome - Positive Behaviour for Learning', n.d.) includes cognitive elements in the scripts provided: one (adapted from Thorsborne & Vinegrad, 2008) involves both what was happening and 'what were you thinking when you did x'. This script features questions

centred around both affective empathy and logical thought, though the distinction between them is not always clear: a section beginning ‘This part of the script is aimed at developing empathy for others’ includes the decidedly rational-sounding ‘What do you think it must have been like for them?’<sup>25</sup> One of the questions suggested in the ‘learning’ model script is ‘Does that seem fair?’ (‘How fair or unfair is this on others in the class?’ in the skeleton model: p.68). This indicates that there is definitely scope to explore understandings of fairness in the PB4L implementation of RD.

While attention to rational considerations is not excluded from restoration, these can be treated as minor factors when considered against the repair of relationships. The repair of a relationship ought not to be a primary concern independent of consideration of whether that relationship is a healthy, fair, or moral one. Greater attention to the rational in restorative practice would help better meet the second goal of good school discipline, that of understanding just authority. This is because attention to the justified way to resolve certain types of conflict in a democracy is governed by rationality: not by what feels fair, but what can be logically justified as fair. Discussing what might be a fair outcome in an implementation of RD provides practice at that. Restorative practices can explore ideas of fairness and justice as well as disharmony and harm, and better prepare students for a society that employs them in the resolution of conflict.

The social institutions of many democracies apply rational principles in attempting to implement just outcomes. A superior social education would enable our students to develop their intellectual understanding of this as well as their respect for the emotional impact they have on other individuals. A superior education would enable our students not only to consider the feelings of others, but also to ask whether the resolution to a disagreement is fair or justified. The remainder of this thesis argues the surprising simplicity of a conceptually significant addition to current implementations of restorative practices that could enable them to better meet these goals. It presents a justification for this by rational and democratic principles that can be supported and explored by those of the widest range of ethical and religious commitments as part of the operation of the secular state, rather than being an imposition on an individual’s moral and ethical choices.

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<sup>25</sup> This distinction is addressed more closely in chapter eight where elements of the emotional and the logical in empathy and sympathy are distinguished.

Students who can understand the reasoning behind fair conflict resolution as it is applied in social institutions are more likely to accept its value, and are also more capable of being party to such institutions' potential modification through the democratic process in the future. Part of the core process of restorative classroom discipline reflects participation in the democratic state — encouraging students to be collaborative participants in disciplinary processes over situations of disagreement; understanding and even accepting why their society has to be so, rather than seeing authority as something imposed by the powerful to which they are merely subject. Schools often do little to educate teenagers about how authority is justified in adult society. Restorative practices can afford the opportunity to explore how states and institutions respond to and provide redress for harm, an opportunity which requires little modification of current methods to take and one that is eminently accessible for teenagers. At the very least, engaging students' thinking about fairness aids the development of their taking of another person's perspective, a useful skill for political participation. Empathetic social consciousness is desirable, yet so is the ability to stand outside one's own position and logically examine what a fair resolution to a problem might be. This thesis proceeds by expanding in detail first upon these concepts and how they support both good school discipline and citizenship education in chapter four, and then on the detail of how social contract reasoning in restorative discipline can be used to support this in chapter five.

## Chapter 4

### **Rationality, deliberative democracy, and citizenship education**

This chapter links education about justified authority, one of the key components of good school discipline, with citizenship education in a democracy. It does so by justification of the role of rationality in adjudicating between differences of opinion in a pluralist society, and how public institutions are required to operate by rational means for their political authority to be justified. Understanding their operation, and developing the ability to participate in their modification, is an important part of being a capable democratic citizen, and educating citizens for this equally is an important principle that is not subject to the moral or political preferences of individual communities. Developing pupils' capability of rational thought further through restorative discipline practices contributes both to better school discipline and better democratic citizenship education.

This chapter is divided into three sections. The first explores the special role of rationality in cases of disagreement about fact, value, and morality between democratic citizens in a secular state. It specifies the understanding of rationality under discussion here, and defends its particular importance for the intersubjective space.<sup>26</sup> Given an acknowledgement of the practical constraints of the existing forms of government in democratic states, and reasonable disagreement over value and morality, this section argues how understanding the justification of authority involves understanding the justification of political authority.

Section two addresses how the principles in the prior section on finding intersubjectively-acceptable rational positions in situations of conflict apply both in schools and in wider democratic society, and how developing such reasoning and understanding is an important part of education for democratic participation. It (this section) does so by reference to theories of deliberative democracy, and highlights their suitability for framing the overt exploration of justified authority in restorative discipline discussions.

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<sup>26</sup> This is not a purely subjective space, but makes no claim to be describing objective truths about the world; it is rather the space in which two or more subjective experiences of the world are perceived to interact.

Section three describes different understandings of citizenship education, and how deliberative democratic discussion can constitute an educational exercise in practical civics as well as a component of good school discipline.

## **Rationality in the justification of political authority**

Education about the justification of authority was established in chapter one to be a component of good school discipline. This section explains why rationality is important for understanding this justification. Given a plurality of reasonable justifications for authority from different moral perspectives, and no society-wide agreement on moral positions or value systems, understanding a mutually-acceptable justification of authority is argued to entail understanding the justification of *political* authority in these situations of persistent disagreement, as it is political authority that can be mutually agreed upon in situations where other sources of authority are under dispute. Attention to the rational in conflict resolution situations such as in school discipline can support the development of this understanding.

Reasoning according to rational principles is important for the justification of political authority due to its particular ability to adjudicate fairly in disputes between individuals on matters of reasoning or preference for which the other party or parties would not otherwise accept similar grounds. This section begins with clarifying the nature of the rational as referred to in this thesis, and its properties of intersubjective acceptability that non-rational forms of reasoning do not necessarily bear.

### **Rationality**

Rationality is a term with a number of different specific understandings. In this thesis, the rational means that which is in accordance with logically consistent reasoning. The concept is used here primarily to contrast decisions made on such a basis with those driven primarily by other factors, such as emotional or affective impulses, that turn out to be irrational. It is used neither in the economic sense of making decisions to maximise one's own expected benefit, nor in the specific philosophical sense of being in contrast with the empirical. In contrast with Scheffler's (2010) understanding of rationality, which defends the emotions as

cognitive, it is used largely to highlight the distinction above. To quote Southwood, to whom the discussion of rationality will return, 'being rational involves freely submitting ourselves to norms we acknowledge as independent of us and being disposed to honor and be guided by the force of reasons; it centrally involves openness and responsiveness to criticism' (2008). This is the understanding of rationality adopted here.

Not all reasons are necessarily rationally consistent. The distinction between reason and rationality, and one's reasons to act rationally, are explored in more detail below.

Rationality is insufficient as a complete picture of the type of thinking individuals require to negotiate their lives, but is argued here to be a critical part of justification of authority that other individuals can accept. Without rationality, and the attention to fairness to which its public consideration is argued to lead, attempts at restoration might restore situations of injustice as described at the end of the previous chapter. Rationality lies at the centre of Dewey's philosophy of education, and was no less critical for philosophers of the London School such as Peters and Hirst, who saw for education 'a specific end: namely, the creation of rational agents, autonomous, reflective and critical...rationality and autonomy at the apex of our educational ideals' (Siegel, 2009).

Two major objections to such a position are addressed by Siegel, and similar defences are adopted here. 'A long tradition in the philosophy of education identifies education's most fundamental aim and ideal as that of the *fostering or cultivation of rationality*' (Siegel, 2012). He proposes (1988) that the goal of education is to develop good critical thinkers. For him this involves the assessment of reasons and a critical attitude. A critical thinker is *appropriately moved by reasons*; having the disposition to act in accordance with reasons, and the ability to assess their force in situations in which reasons play a role. Such a rationality prepares students to participate meaningfully in democratic processes of the form described below, and by 'explicitly (acknowledging) the desirability of the attainment by students of self-sufficiency and autonomy' supports the principles on which it is grounded.

Siegel addresses two major objections to the central role in education of the development of rationality. Both of these apply similarly to the defence of the role rationality plays in the justification of authority, and consequently in school discipline. The first he terms the

‘ideology objection’<sup>27</sup>. This is the position that critical thinking involving rationality is but one ideology, the value of which in comparison with other ideologies cannot be evaluated by ideologically neutral means. The argument against this, Siegel claims, is presupposed by the manner in which it is made. The form of engagement making such an argument involves is rational. Attempting to refute rationality by a rationalised position is self-refuting; in doing so, one implicitly acknowledges the importance of rationality (at least in the evaluation of such cases). This argument is not without its problems. It is impossible to begin from a wholly value-neutral position. Siegel’s claim presupposes a rational discourse of the sort in which academic debate occurs. It is possible to reject this foundation, but not in a manner which an academic thesis can express while claiming the value of rational evaluative methods. As a universal value, rationality can be challenged. It will suffice here instead to defend the subordinate value of instrumental rationality as a tool that can be of mutually accepted value even in situations of ideological disagreement.

For practical instrumental rationality (that is, taking the action necessary to achieve one’s given ends), a logical engagement with cause and effect better enables us to achieve the ends we desire in domains where rational models have predictive power. If one has observed through inductive means that eating food causes one to feel less hungry, then, when desiring to feel less hungry, one should expect greater success at meeting this aim by pursuing the rational course of action of eating food than by an irrational one, such as drawing a picture, all other considerations set aside.

Thus, the reasons conception of critical thinking, even if it is an ideology, must be recognized at least for its value in such situations. Siegel claims it ‘as the *best* or most defensible one, for it alone sanctions the critical evaluation of all ideologies’ (p.75, emphasis in original). It may not be the ‘best’ from all perspectives, as it may be preferable for an individual to sacrifice some desires-ends correspondence for the sake of satisfying other values which they personally hold superordinate, but it still has a particular instrumental value. Even if rationality cannot evaluate all ideologies neutrally, it can evaluate those which claim to be grounded on rational and logical concepts.

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<sup>27</sup> Most prominently made by Feyerabend (1987, 1993)



While it is possible to challenge arguments of self-refutation in general, if this type of argument holds then a reasoned argument cannot undermine reason. In practical terms, once one has been pre-exposed to a society in which the benefits of rationality are made apparent then it is impossible to avoid such a presupposition. By participation in the reading or writing of this thesis then one is engaging with a domain in which the value of rational argument is presupposed. It is not practically possible to prevent pupils from being exposed to situations where there appear to be benefits to rationality. Regardless of the success of the theoretical defence, in practical instantiation such an objection could not practically be accommodated.

The second objection Siegel addresses is that in order to teach students to be rational they must be predisposed to believe that critical thinking is important. Siegel argues that it is sometimes necessary and justified to inculcate some foundational beliefs without justification (p.89). This thesis mounts not a defence of rationality in general, but of its value in good school discipline. The argument in chapter one established developing pupils' understandings of the justification of authority as one of the goals of good school discipline. The desirability of rationality (which this chapter requires in order to defend the above goal) is entailed by the presupposition that good school discipline is desirable, regardless of whether or not one accepts Southwood's argument for the normativity of rationality presented below.

This thesis is concerned more with the justification for institutions operating according to rational principles, on which the following sections elaborate, than the justification of rationality as important for an individual's own decision-making. If institutions other than schools are required to operate rationally, then there is a further argument in defence of the development of rationality in education: that it better enables one to engage with and shape social institutions, and thus better participate in adult democratic life.

### ***Rationality as distinct from reason***

Kolodny's (2005) paper *Why be rational?* has kindled considerable debate<sup>28</sup> over whether or not we have good reason to be rational. The debate separates an individual's (instrumental) reasons from the requirements of rational consistency. A recent paper from Southwood

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<sup>28</sup> See Broome (2013).

(2008) presents a justification for why it is that we ought to act in accordance with the demands of rationality on which this thesis builds.

Southwood defends rationality as justified grounds for action with respect to the meeting of our own subjective goals. He considers Broome's challenge, as he calls the generalised question of why to be rational as addressed by Broome and Kolodny, unlikely to be met. However, he considers their characterisation of the problem as unsatisfactory. Southwood recasts Prichard's (1912) argument that external reasons are unnecessary for morality: morality's reasons are internal. This fits well with the position on moral pluralism adopted throughout this thesis: that there may not necessarily be a compelling personal reason for pursuing actions in accordance with a particular moral set of beliefs, but there *is* good collective, public reason for the establishment of institutions that encourage the pursuit of rational courses of action, and disincentivise others.

Southwood's conclusion is expressed in language that effectively highlights the distinctions this thesis will make about the obligations of rationality on the individual and the obligations upon institutions to operate (ideally) rationally. He makes a distinction between the question of whether to *obey* rationality and the reasons *of* rationality. Obedience to rationality is the subject of external reasons, and the challenge he considers unlikely to be met.<sup>29</sup> Similarly, this thesis does not claim reasons for individuals to act rationally. However, rationality itself entails reasons, construed by Southwood as consisting of the demands of our particular first-person standpoint (e.g. the desire for our achieved ends to closely correspond with our desires). Such internal reasons can be motivating reasons for rationality, and desires-ends correspondence is a powerful motivation for rationality to be followed in any social institutions our society collectively constructs. Consequently, the failure to locate an independent justification for following rational requirements should do nothing to undermine belief in motivating reasons for rationality. This thesis adopts this approach and considers one reason for rationality to be as follows: how I ought to behave to give full respect to certain wishes, capabilities and even obligations to myself. It is not something for which external justificatory reasons need necessarily to be found. In short, and in allusion to Scanlon's work on the social contract as explored in chapter five, 'if

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<sup>29</sup> This would be somewhat analogous to finding a defence of rationality as a neutral, universal value.

morality is a matter of what we owe to each other, rationality is a matter of what we owe to ourselves' (Southwood, 2008, p. 30).

Developing students' rational capabilities is often argued to be a vital component of education, and is required for the understanding of just authority and full participation in democratic society; key goals of good school discipline, as the rest of this chapter shall go on to argue.

### ***The value of rationality in the intersubjective space***

Regardless of the subjective value of rationality, it has a particular value in communication between different individuals. It has intersubjective value: that is, without the necessity of a shared position on other questions of truth and value, rationality enables judgements of validity and acceptability to be discussed meaningfully in a way that irrational communication does not.

Communication that builds from mutually acceptable claims with a consistent logic can provide intersubjectively-acceptable understandings of cause and effect, and consequently reasons for action. Logical grounds for an action can be communicated to an interlocutor in a way that they may consider also compelling for them. For example, 'Don't touch the stove; it's still hot and may burn you' conveys a more persuasive reason than a supernatural explanation of the same phenomenon founded on beliefs that the listener does not share. Full agreement is not necessary about facts and values in the world, but different principles and reasoning may lead to the same conclusion. This is rational convergence (where the same conclusion is reached from different grounds), rather than consensus (where grounds, reasoning, and conclusion align). These terms that will recur in the discussion of public reason that follows.

In order to evaluate the generalisable acceptability of another's causal claim, similarities in understanding of causal logic are necessary to make the conversation carry appropriately similar meanings for the speaker and the listener. If you, the reader, believe you can evaluate this argument in a mutually meaningful way, you presuppose a certain level of shared understanding of logic between us. The closer our logics are to identical, the more precisely we can agree on a shared understanding of claims and principles, and of causes and effects.

While he is not a theorist on which this thesis directly builds, this ascription of value to rational communication in an attempt to reach consensus bears considerable similarities to Habermas' work on communicative rationality (Habermas & McCarthy, 1984) — work which is also concerned with decision making in deliberative democracy, the subject of the next section of this chapter. Habermas' discourse theory considers the appropriate form of public discussion and debate over practical questions that confront political bodies. It aims to enable inclusive critical discussion in which interlocutors converse as equals in an attempt to reach a shared understanding on matters which affect them all. These principles are expanded and explained in considerable detail over the course of this chapter as components of public reason in deliberative democracy.

While many of the concepts he addresses are deployed and explored in later sections of this argument, Habermas' idealisation of the conditions for such discussions is slightly different to those in which this thesis works. This thesis is not an attempt to construct a generalised theory of communication, rather to establish a framework for developing rational capability through conversations that take place in restorative discipline. Similar principles of informed and fair co-operation in situations of comprehensive disagreement are adopted, via a model of deliberative democracy, though the scope of discussions and domain of those who can be considered to be affected is limited.

Habermas summarises his idealised conception of practical discourse in the discourse principle, which may be understood as follows:

A rule of action or choice is justified, and thus valid, only if all those affected by the rule or choice could accept it in a reasonable discourse.  
(Bohman & Rehg, 2014)

While Habermas initially presented this as a moral principle, it can more generally be considered as a principle of impartial justification<sup>30</sup> that holds for all types of practical discourse. This chapter goes on to deal with this distinction between the moral and that which can be impartially justified, and argues that impartial justification is sometimes necessary for just authority.

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<sup>30</sup> This concept is addressed in depth in the next section with reference to Rawls' original position (1971) and Smith's impartial spectator (1759/2000).

Communicative rationality refers to the capacity to engage in such discussion under conditions as close as possible to this ideal, with the aim of achieving consensus. The argument which follows broadly adheres to this principle, though accepts convergence on a solution rather than consensus on the reasoning for how to get there in a classroom situation. Outside of this principle, the system proposed here bears closer resemblance to aspects of Rawls' work than to Habermas', and will be evaluated in comparison to his theories in due course.

Claims and logic shared between individuals can help find agreement on models of cause and effect, and thus reasons for action. The fewer mistakes<sup>31</sup> we make in formulating these models, the better their predictive power for future events. Better ability to predict events gives us better ability to choose actions more likely to obtain the outcomes we desire or value in the future. For a collective, rational communication has an intersubjective acceptability and predictive power that communication without logical reason does not.

This thesis will proceed to argue that for conflict resolution in the public space, the value of rationality is grounds for fairness having authority in interpersonal disputes when wishing to allow pluralism over key matters of value under concern.

### **Practical constraints**

Alongside the discussion of idealised models, this thesis accepts and works alongside the limitations of existing political situations: the existing compulsions of our nation-states and school governance systems. This proposal is for a practical and reasonable change to existing systems that is expected to lead to positive benefits, rather than an attempt to build a utopian<sup>32</sup> system in isolation. Some of the foundations of the school policies or nation-states in which we live may be unjust or irrational, though this does not undermine attempts to make incremental progress within an existing system.

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<sup>31</sup> The notion of mistakes should not be particularly problematic: if one does not accept the axiom of non-contradiction, finding shared meaning worth discussing in this or any academic writing is futile. A mutual engagement with this medium presupposes certain beliefs, and this argument does not need to isolate them all; rather to highlight those important for making the progress under discussion.

<sup>32</sup> Although utopian thinking can be conceived of as the building of better worlds, not perfect ones (Roberts & Freeman-Moir, 2013).

One key principle this thesis follows is that of the secular state — that government does not privilege one particular moral or religious position, or force it upon citizens. Understanding and accepting the collective need to adopt a particular policy over what an individual personally considers moral is a critical part of accepting the secular state, and necessary for the argument in progress.<sup>33</sup>

When considering whether certain restrictions or resolutions are fairly justified, there will be practical limitations to the extent that conclusions can be pursued in the school. Some of these will be because of requirements of the government that are beyond the scope of what can be addressed within an educational institution. For example, a state school cannot institute rules which are against national law. Students can, however, at least be made aware of this, which serves as part of critical citizenship education in revealing power structures that bear upon them of which they were previously unaware.<sup>34</sup> Such awareness may leave students better equipped to evaluate and participate in the shaping of national policy in later life, but for present purposes such restrictions must be accepted. The justification of compulsions upon students can be investigated, but they form a starting point for practical discussion. It is also worth noting the compulsion of membership of the democratic state in which one resides. There is only limited scope for an individual to opt out of certain aspects of their present state's machinery, such as the justice system, and this is another principle that is accepted perforce rather than justified in this thesis.

If one objects to aspects of inequality between nations, one can argue against the moral justification of national borders even if one lacks the power to change them. Similarly, a child's desires may not be able to be fully respected in disagreements that take place at school. For many young teenagers, the law of the land combined with the will of their parents may provide an unsatisfactory answer to the question 'Why do I have to go to school?', but it is nonetheless a possible justification that can be exposed, and the justice of it can be discussed. The deeper exploration, discussion, and understanding of such problems are valuable elements of critical citizenship education, as discussed below.

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<sup>33</sup> This precondition may seem to establish respect for rationality as an ideologically-neutral evaluative force, but it is only the instrumental value of rationality that is necessary for this thesis' argument rather than any ascription to it of superordinacy to all other value claims.

<sup>34</sup> This concept is explored further in the final section of this chapter.

## Reasonable pluralism

The secular state allows for individuals to have different views on matters of value and morality. In some democracies this is constitutionally enshrined, such as by the right to freedom of religious belief in the USA. Individuals do not have to act logically, morally, or consistently. Consequently, to provide an intersubjectively-acceptable solution to situations of conflict, rationality is important when other grounds for finding agreement prove insufficient. If one remains neutral between conflicting values under discussion, rationality may be an important subordinate value on which it is possible for disputants to agree. While agreement will sometimes not be possible to find, and ongoing conflict or resolution by force may be preferable for some parties involved, rationality can at least provide a solution that a third party would accept as fair (on which more follows) when it is necessary to resolve a conflict as the costs to the community would otherwise be too great. This concept will be important for the discussion of democratic theory below.

The holding of opinions and positions can be respected without those positions themselves being given respect. Upholding the right of an individual to hold a view of their choice is different from respecting the content of that view. The system of deliberative democracy that follows allows for a *reasonable pluralism* of positions. That is, it acknowledges that there are positions on which there is rational and reasonable disagreement. In Rawls' words, 'citizens who freely exercise their powers of reasoning will tend to pervasively and persistently disagree about their fundamental values and principles' (Rawls, 2005).

Reasonable pluralism does not necessitate respect for all divergent positions; a position which is demonstrably irrational<sup>35</sup> does not merit weight being attached to it in the evaluation of fair compromise involved in the democratic process. This may seem an extreme statement if expressed colloquially, but is logically necessary. The reason it does not entail extreme censorship is that doubt over the irrationality of a position renders it admissible into the democratic discourse for its merit to be evaluated. If two different belief groups hold opposing positions that may both be rationally justified, then democratic deliberation can attempt to find fair resolution between them. If a view is held that is demonstrably self-contradictory, then this position cannot be assigned value within a logical

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<sup>35</sup> This will be a small, and possibly non-existent, set: for example, beliefs which deny analytic truths (e.g.  $1+1=3$ ). If a position is not necessarily irrational, or if this is disputed, then it is a matter for democratic deliberation, as follows.

process with which it is incompatible. When positions are found to be unsound, then a rational debate ceases to allow space for consideration of their consequences.

As described above, rational thinking has better predictive ability concerning the results of future actions and events than irrational thinking, and so better enables individuals to obtain the outcomes they wish. This is assumed to be desirable. Collectively, the same principle applies. It is assumed to be desirable to be better able to carry out that for which we collectively wish, given acknowledgement that democratic resolutions may be imperfect reflections of such. Better rational communication can help us better shape our collective decision-making to our shared wishes.

### **Just political authority as superordinate to morality in a secular and pluralist democracy**

Justified authority, in some situations of disagreement over values, will therefore have to be based on rational principles to find an acceptable solution between two disagreeing parties in a situation of conflict. Understanding justified authority is one of the key goals established for good school discipline to meet. Even if agreement cannot be reached, individuals ought to recognise the pre-eminent role of the rational in attempting to find fair resolution between apparently opposed positions. Such rational reasoning needs to be based on principles that are either i) mutually accepted (such as shared understandings of cause and effect, or perhaps some mutually held values or rights) or ii) practically unavoidable in cases of reasoning to a practical rather than an ideal outcome (elements of the existing force of the state, or the school at a smaller level of scope). This justification of intersubjectively-acceptable authority is the justification of political authority. Consequently, in some situations understanding the justification of authority will entail understanding the justification of political authority. Better rational capability enables one better to do this, and thus meet one of the key goals of school discipline.

It is important to recognise that one can attach importance both to personal moral commitments and separately to governance which may override these commitments in a secular state. That a citizen may not have chosen to live in a secular state is a reasonable objection, though beyond the scope of this thesis which addresses education for democracies, with particular reference to New Zealand. It is possible for some schools within a state to adhere to specific moral commitments beyond these rational principles,



and this will be expanded upon in chapter six. There can be agreement of principles upon which to reason beyond that of rationality itself.

Accepting governmental and social structures that may not follow one's individual beliefs is a reality of secular democracy, but one that brings a concomitant benefit — freedom from subjugation by other belief structures that might place restrictions upon individuals without having intersubjectively-acceptable rational justification for doing so. The ability to adopt and reason from a third-person perspective may make this easier to recognise, a skill which the suggested extension to restorative discipline aims to develop.

### **Social institutions and their role**

Social institutions, including schools and criminal justice systems, are often required to make interventions between parties with opposed beliefs or values and find resolutions in situations of conflict. In a secular state, citizens have recourse to institutions which are neutral on such matters of dispute. A state which offers only faith schools or religious courts is not (as this thesis understands the term) a secular state. Such neutral institutions operate (ideally) according to the law, and seek to find outcomes to conflicts without preference for one belief system over another. If these outcomes are to be justifiable to those of the widest possible range of different moral commitments, then they have to be based on rational principles (because of the intersubjective acceptability of rationality).<sup>36</sup> These institutions do not carry political authority without such justification as they exert force, and without acceptable justification such force is merely coercion rather than justified political authority.

This position can be justified by arguments from first principles in political theory. A traditional approach based on hypothetical social contracts that fits the discussions which follow is to assume a 'state of nature', and freedom from interference from other individuals. The loss of these negative freedoms requires corresponding benefits to be afforded for an individual to willingly enter into a contract with a government that restricts some of their actions. While there are other models for the justification of government, the

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<sup>36</sup> While their rational operation in practice is another matter, understanding their justification is a component of why developing students' rational capabilities better fits them to engage with the institutions of democratic adult life.

discussion of classroom rules in restorative discipline can make such initial assumptions transparent and collaboratively build on them. The role of institutions in both a school and the state can be subject to rational deliberative discussion in a democracy.

To summarise, the demands made of institutions are significantly different to those of private individuals in democracies. While democracies do not compel their citizens to be rational, if they choose not to be (as a simple example, it would be incompatible with freedom of religion, which includes the freedom to believe contradictory tenets), our institutions operate in the intersubjective space where rational justifications/arguments have value, as described above; and thus, logical reasoning behind decisions is valued. The justification for our social institutions such as our law courts, governing bodies, and schools must be rational in order to be widely acceptable to those of differing belief systems. While in practice these institutions fall short of meeting such ideals, our democracies also fall short (if they attempt to be deliberative as described in the next section) from the ideal of fair and fully informed communication that is free from the influence of power dynamics which would misshape the decisions. While some may consider the role of, for example, law courts primarily to consider emotional satisfaction, the *ideals* governing these systems are rational — even if their implementations can be imperfect. The weakness of a state at implementing its ideals is a consideration for practical justification, and democratic debate.

If someone understands the rationality behind a particular judgement that overrules their individual desire, then they may be better disposed to accept it.<sup>37</sup> A compulsion so justified appears less like the arbitrary exercise of personal power from which progressive classroom management theorists seek to move away in the understanding of school discipline. The authority of a fair discipline system that is worthy of such respect must, therefore, be contingent upon its rationality. While individuals are not required to be consistently rational, secular social institutions ideally ought to be so; and thus a benefit of developing one's rational capability is the ability to better engage with and modify such systems through democratic processes in future adult life. Mutually acceptable rationality is at the heart of just resolution to conflict, and it is desirable for it to be seen and respected to be so in the implementation of discipline in the school community.

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<sup>37</sup> Developing the motivation to act in accordance with the requirements of justice is addressed in detail in chapter eight.

In conclusion, understanding the justification of political authority is a component of understanding the justification of authority that is important when attempting to find agreement or fair resolution in situations of conflict between people holding irreconcilably different value systems. This can be supported by greater attention to developing rational capabilities, and is a component of good school discipline that can be better attended to in restorative discipline, by means which the next chapter shall illustrate.

## **Democracy and public reason**

This section addresses the links between the proposed extension to restorative discipline discussions and education for democracy. The principles above on finding acceptable rational positions in situations of conflict apply both in schools and wider society, and this section examines how overtly exploring the justification of resolutions to conflicts in schools contributes both to good school discipline and to education about adult democratic life.

### **Impartial reasoning, public reason, and public justification**

Firstly, some clarifications follow on the nature of such reasoning and the compromise positions to which it leads.

Such positions are described here as ‘compromises’ or ‘intersubjectively acceptable’ for clarity, but they may not actually be acceptable to either participant in a dispute. The individuals may have opposed (moral) beliefs that do not allow for compromise positions. If one person’s beliefs demand  $p$ , and another’s demand  $\neg p$ , then there is no rational position that allows for the satisfaction of both.<sup>38</sup> Often it is important not to take a position on  $p$  in making a ruling in such situations, such as in the case of judgements on moral or religious positions at state level, and on judgements in ‘he-said/she-said’ situations in school conflicts without further supporting evidence in one direction or the other. In the resolution of such situations — when resolution is necessary, such as in situations where taking no action is a worse outcome for all those involved — the position sought is that which is best justifiable to an impartial observer.

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<sup>38</sup> A compromise on the satisfaction of neither would be possible if the law of the excluded middle is rejected, but addressing this approach is not necessary for the development of the argument at hand.

The impartial observer is a concept drawn from Rawls' theory of the 'original position' (Rawls, 1971/2000). The principle is that in such situations one should choose (or resolution should be made) as if one were to decide an outcome, and then become one of the disputants, without knowing in advance which of them one would become. This allows for an evaluation of the relative effects of a decision on those subject to it. It engages one's reasoning in terms of fairness, and provides grounds for decisions in certain cases where the costs or benefits of a particular resolution may seem particularly skewed in their distribution. If there are no moral or other grounds for decision in cases of irreconcilable conflict, fairness is a principle to which one can retreat which is intersubjectively justified by its rationality.

It is important to note that intersubjectively-acceptable reasoning does not precisely produce fairness. Individuals do not reason from ideal situations, and may, for example, have lower expectations of how much an acceptable outcome would benefit them than that which is just. There may be inequalities or injustices which can be exposed in discussions, but not fairly resolved. The model of such reasoning does, however, provide grounds for working out what fair conflict resolution would entail in situations where neutrality over matters of value is important — in Rawls' terms, where comprehensive doctrines are in conflict.

This impersonal concept of fairness is at the core of Rawls' conception of justice. Justice is not the object of pursuit here, but rationally justified authority in cases of conflict is. Direct reference to justice would involve further connotations, and specific inclusions and exclusions, but this aspect of the principle is the same.

In school discussions that take place as part of restorative discipline, one can model and explain such reasoning in conflict situations, as described in the next chapter. Pupils can be involved in developing their capacity to think rationally from an impartial perspective. In many situations, collectively developing reasoning to the best-possible impartial solution on which participants can agree will be the most desirable outcome. This collective development of best reason in the public space is the core component of participation in deliberative democracy. School discipline can, consequently, actively prepare students for this model of democratic adult life.

The difference between the best acceptable rational reasoning, and the concept of ‘public reason’ should briefly be clarified. Rawls’ public reason involves justifying a position by means that those of different political or moral backgrounds could accept.<sup>39</sup> A more general notion is that of public justification, where political rules are only valid if they are justifiable or acceptable to all those persons over whom they claim authority. The reasoning proposed for use within restorative discussions is the best collective rational position, free from subjective bias and undue influence of power, as the next section shall clarify. This ‘best public reasoning’ is distinct from ‘public justification’; a concept on which the democratic system that values it rests.

Best reasoning in school conflicts is additionally only required to hold within a community that may be limited by other factors, such as enforced conditions that are counter to the principles which a community attempts to espouse. While restorative communities aim to reduce or eliminate these, some are likely still to be present (compulsion from one’s parents to attend school against one’s will can be a common example). This model of reasoning is something to which one can retreat when faced with contradictory statements of fact or belief systems. In practical situations, there will often be some agreement on shared principles of value and fact on which a decision can also depend. Reference to an impartial perspective will not always be required.

Collective reasoning as described here is an attempt to iterate towards the best possible conclusion; to model how people ought, hypothetically, to reason. This concept of ideal reason fits with the model of deliberative democracy proposed below, but not precisely with the representative democracy that governs New Zealand in practice. The best reason is prioritised, rather than a simple majority of opinions. Despite this difference between an ideal model and current practice, developing the ability to reason about fairness from an impartial position is still education for the improved understanding of and ability to participate in adult democratic life.

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<sup>39</sup> There is difference on whether it is acceptable to find such shared positions by consensus, where two parties’ reasoning and results are the same, or convergence, where different reasons may lead to the same conclusion, but both may prove useful for educative purposes in the discussions proposed below.

## **Deliberative democracy**

This section explores the nature of the democracies that such reasoning can inform.

Democracies feature active participation by their subjects in political life, a system for replacing governments by free and fair elections, protection for the human rights of all citizens, and the rule of law (Diamond, 2016). Beyond this, different sub-classifications distinguish features of their operation. Some democracies are direct, with citizens participating actively in specific questions of governance, while others are representative, in which individuals or groups are delegated to the task of making certain decisions on behalf of the people. This thesis focuses on one particular quality of democracies: deliberation.

Either direct or representative forms of democracy can be deliberative. Deliberative democracy is distinguished from other types of democracy in that decisions are considered legitimate on the basis of 'authentic deliberation', rather than the aggregation of citizen's preferences through voting. This section focuses on Gutmann and Thompson's conception of deliberative democracy as it follows clear principles which fit the theories above, transfer to classroom situations, and support the argument of this thesis.

The features necessary for deliberation to be considered authentic are formulated slightly differently by different theorists, though with substantial overlap on the core principles. Deliberation is considered authentic if it is public, sustained (i.e. decisions may be revisited), and free from the undue influence of wealth and special interest groups. Bessette (1980) was first to describe such discussions as part of 'deliberative democracy', although its roots can be recognised as far back as Classical Athenian democracy, where reasoned discussion was considered a critical preliminary to wise political action. Fishkin (2011) requires democratic deliberation to be informed, balanced, sincere, and not biased in its consideration by the identity or capability of a speaker. These features are all components of the ideal public rationality described in the first section of this chapter. To these Cohen (J. Cohen, 1989) adds the requirements of ongoing association of those involved in the discussion, an acceptance of pluralism as described above, transparency (a similar requirement to sincerity of honest, complete, and open discussion), and an acceptance of being governed by such a system. He also identifies deliberation as the key feature of many social institutions, in line with the arguments above about the rational duties they bear.

These conditions can all be met by the system described in this thesis, and can be applied in school discipline systems.

Deliberative democracy presumes the existence of reasonable pluralism: that there are positions (notably moral positions) on which opposing views cannot reasonably be rejected. In these situations, the view of another party should be respected even if one is in disagreement with it. This is a consequence of allowing free and equal citizens to exercise their own capacities to reason (on which more below). In Gutmann and Thompson's terms (Gutmann & Thompson, 1996, 2004), these are deliberative disagreements: disagreements over which it is desirable for discussion to take place in the public sphere to establish the best way to move forwards in situations in which two positions are arguably reasonable, yet in contradiction.

Their formulation of deliberative democracy allows discussion of such difficult problems in any places where citizens come together to discuss matters of public interest on a regular basis, and reach collective decisions. The procedures and the reasoning behind the discussion of such problems are open to question, and this can be analogised to restorative discipline. If a child is instructed not to play on top of the high wall, a discussion of the reasons behind that injunction may develop his or her thinking about how the competing considerations of pleasure and potential injury interact.

Gutmann and Thompson's model is highly suitable for the description of both deliberative democratic government and classroom discussions that employ similar forms of reasoning. They describe a collective of free and equal citizens — either private citizens or their representatives — who provide each other with mutually acceptable justifications for their decisions. Deliberative democracy ideally models the best of the public reasoning described above, and this is most apparent in contrast with an aggregative system in which voters may follow their self-interest, and the majority holds sway. A deliberative democracy seeks the best possible rational solution, rather than the collation of preferences or ill-founded reasoning. While such reasoning is unlikely to be perfectly achieved, it is a governing principle for how deliberative discussions should be conducted.

This description is condensed by Gutmann and Thompson into governing principles which are well-fitted to the language of rationality and public reason used above. They stipulate

reason giving and mutual acceptability, which fit the arguments for the value of rationality in the intersubjective space. They describe reasons as necessarily reciprocal — that is, they cannot be reasonably rejected, and would be acceptable from Rawls' original position, as described above. Reasons must also be accessible; as with Cohen's stipulation of ongoing association of the democratic community, this is to render judgements provisional, 'with the aim of reaching decisions that are binding on all at present but open to challenge in the future'. Such a principle fits both the enactment of government policy and the creation of rules in a classroom community. In democratic and restorative classrooms, as in the state, communities are typically bound in ongoing association and with an expectation that they will keep evaluating and engaging with the conditions of their community. Restorative conversations keep principles of conflict resolution and their justification accessible.

A key factor that makes Gutmann and Thompson's formulation of deliberative democracy suitable for classroom discussions in a secular and morally plural state is that it makes no claims to present a comprehensive ethical doctrine of its own. Deliberative democracy, in their terms, is purely a 'second-order theory'; a means of negotiating and evaluating other theories and matters of concern. 'As a model for everyday reasoning, it does not need to presuppose any strong claims about ethics or epistemology' (Gutmann & Thompson, 1996, p. 5). Both the principles and procedures of deliberative democracy can be considered provisional, and consequently open to adaptation by the resolutions of local communities. Deliberative democracy does not stipulate principles that impact upon the moral domain to which sub-communities may object beyond those of the secular state, which have been defended at length above. Gutmann and Thompson explicitly write that the 'basic principle of reciprocity makes room for ongoing moral conflict'. This enables a deliberative structure to foreground rational reasoning as a means of adjudicating between other claims while opening its own principles to the same evaluation. In a similar manner, a restorative discussion can explore how a certain proposed outcome to a disciplinary situation is 'fair' and also discuss the grounds for the system itself. This will be applicable to the use of social contract theory recommended to help frame such discussions in the next chapter: it can be a starting point, and open to reform (perhaps moving between contractarian and contractual formulations as described) and even rejection through the process of deliberative discussion. Facilitators in restorative discussions can seek to resolve conflicts



while always being transparent about what rules and principles are being respected, and open to their discussion.

In grounding such discussions, models of democracy differ over whether principles or procedures should be established as prior to the other. Deliberative theorists typically part from Rawls on these grounds, as Rawls stipulates justice as a primary value beyond the reach of democratic deliberation. This model is not specifically tied to one conception of justice, rather leaving it open to change according to democratic deliberation. The value of rationality is necessary, as defended above on the grounds both of its merit in education and its utility in reaching understanding between different individuals. Rationality itself may be re-evaluated within deliberative discussion, but it can be argued to be impossible to refute successfully in a primarily rational system. It can be challenged, but faces the difficulty of using rational means to discredit the rational, as Siegel argues against in the first section of this chapter. The discourse of co-operation in schools may be inescapably rational for its reasoning to hold any acceptability that is widely intersubjectively-acceptable.

Other principles can be subject to initial stipulation and progressive change, like the procedures of the model, which renders deliberative democracy neither entirely procedural nor entirely principled. This is useful for a system that is to be applied in a variety of educational environments, some of which will necessarily face restrictions that may not be rationally well-justified. Gutmann and Thompson stipulate three initial principles of politics — reciprocity, publicity, and accountability — and three principles of policies — basic liberty, basic opportunity and fair opportunity —, all of which flow from reciprocity. Reciprocal respect for persons as reasoning beings is central to their free and equal status, and entails respecting one another by recognizing the obligation to mutually justify to one another laws and policies, in terms that permit reasonable disagreement (Gutmann & Thompson, 1996, p. 137). Meeting this requirement to justify laws to one another by terms another individual might accept (i.e. in the intersubjective space) requires learning about the rational justification for (political) authority. Consequently, education about justified authority, part of good school discipline, is an important component of education for full participation in democratic deliberation. This supports the adoption of disciplinary systems well-suited to model and educate about such systems in schools as preparation for full and equal participation in adult life.

This section concludes by noting two challenges to respecting the above principles in practice, and further specific benefits of a deliberative model for the classroom context.

One practical challenge is the evaluation of whether state educational institutions in New Zealand and their discipline systems reflect the principles above. Principles of equal opportunity may be expected to be beyond the remit of a teacher's personal preference in establishing the grounds for their classroom society; in practice, however, the manner of their interpretation may lead to disagreement over whether they are being implemented or not. For example, some may consider positive discrimination<sup>40</sup> an important part of equal or fair opportunity, others a violation of that principle. Principles of liberty may be limited by conditions of the state (formal education at school or at home is compulsory), and reciprocity may be unevenly applied (consider what aspects of the status of teachers and staff may be thought to merit unequal treatment).

Secondly, systems that protect children's access to rational education about justified authority are important for developing their equal ability to participate in democratic adult life. A rejection of secularity in public institutions may endanger access to such education. Chapter six will discuss some arguments concerning faith schools, but it is illustrative to describe a particular legal case here that clarifies the importance of the development of children's capabilities for democratic citizenship in the secular state. In 1983, a group of parents mounted an unsuccessful legal challenge against Hawkins County, Tennessee, in the USA. For religious reasons, they wanted their children not to be exposed to a textbook that aimed to teach both reading skills and the values of democratic citizenship. They objected to their children being taught to make critical judgements and being exposed to information about other ways of life, unless such information included a statement that the way of life prescribed by their own faith was the only true one. It was ruled that the children should 'receive the education necessary for developing their capacity as democratic citizens' (to protect the liberties and opportunities of all citizens, including children and parents). Their

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<sup>40</sup> An example of positive discrimination as understood here would be setting the pass mark of an examination at 70% for most students, but 60% for persons of colour. Those in favour of positive discrimination might argue that if there are cultural factors that are expected to reduce coloured candidates' scores on the test, and that they are not relevant to the qualities being examined, then this is restoring equality. Those against positive discrimination may argue that this is unfairly promoting weaker students above those who have performed more strongly, that the above factors cannot be isolated, and that a test is a uniform standard. The directly opposed positions on fairness here may make it hard to see whether or not this principle is being followed in a classroom.

development and capacity for critical reasoning and making reciprocal claims was considered a public good that was not trumped by the private values of the parents (Gutmann & Thompson, 1996, pp. 63–9). *Democracy and disagreement* claims that the ‘state must educate for justice values ... as part of enabling citizen development and participation’. Clear parallels between nation-wide and school-wide systems can help show where restorative models both do and do not mirror the resolution of disputes in adult society.

Despite these potential obstacles, there are further advantages to deliberative models of democracy in addition to those mentioned. Deliberative discussion leads to less partisanship than aggregative models of democracy, and more sympathy with opposing views (Fishkin, 2011). It leads to a greater respect for evidence-based reasoning over opinion, and discussion participants demonstrate greater commitment to the decisions reached than in other models of democracy. Deliberative discussions create greater opportunity for shared consensuses to emerge, consequently promoting greater unity behind controversial decisions and greater social unity between those of differing perspectives.

In general, the better the rational capabilities of participants in a discussion, the less likely that conclusions which obtain consensus will be irrational. This strengthens the ability of democratic societies to achieve that which their members collectively will, following the argument above about the greater predictive power of rational over irrational thinking. As stated initially, deliberative democracies can be representative or direct; in the situations under discussion, representative models are more similar to how the state operates, and direct democracy may have more in common with school councils and discussion groups. Deliberative discussions in restorative discipline can prepare participants for both models of democratic engagement by exposure to the theory and practice of both models.

An additional strength of deliberative models for classroom implementations is that as the best solution is sought, and not a simple majority, there is less need to defend the special status of the teacher if they are outnumbered in a class debate while proposing what is clearly the most rational solution. Although respect for rationality is not to be presumed, such a situation can be used to encourage consideration of both the merits and drawbacks of the proposed causes of action, rather than creating a situation that can easily be framed

as a rebellion against the unjustified authority of those in positions of power. One weakness this situation highlights is the idealised nature of such discussions. In certain groups — especially of younger children — it may be difficult to recognise an irrational argument. While deliberative theory is clear that the model is an ideal which communities can attempt to model as closely as possible, the limited capacity of some individuals to participate meaningfully in deliberative discussions is a potential concern.<sup>41</sup> Their limited development can in fact be part of the argument for the desirability of adopting such systems: Gutmann and Thompson's principle of equality requires citizens to have the ability to mutually justify laws to each other in terms they might reasonably accept, and practices which seek to increase participants' capabilities in this help to meet principles that may be considered basic individual rights as well as in preparing students for the activities of democratic adult life.

Gutmann and Thompson acknowledge the importance of schools (and school boards) as places for preparation for deliberative democracy to take place, which in this thesis takes the form of restorative conversations that develop rational capabilities and model the conditions of democratic deliberation. They consider that 'Deliberation should be extended beyond the boundaries established by procedural and constitutional democracy' (Gutmann & Thompson, 1996, p. 49). Deliberative discussions can be a way of involving children in school disciplinary resolutions rather than imposing sanctions forcibly upon them, in line with the principle that restorative discipline should be done with students, rather than to them. Deliberative discussions encourage thought about mutually acceptable solutions rather than encouraging a teacher to exercise authority that may be poorly justified.

In summary, deliberative principles can underpin rational elements of restorative discussions in school discipline, which can constitute education about and preparation for adult democratic life as well as contributing to good school discipline through developing the understanding of justified authority. By Gutmann and Thompson's formulation of deliberative principles, such education is a necessary part of free and equal participation in

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<sup>41</sup> Chapter seven addresses children's capacity for rational thought, and deploys evidence that in the secondary age range under discussion their abilities are sufficiently developed for engagement with the model proposed in this thesis.

adult democratic society, and this is a strong argument in favour of its development through greater attention to the rational in restorative discipline discussions.

## **Citizenship education**

This chapter has argued how rational consideration of justified political authority in situations of conflict resolution is an important component of good school discipline, and that a deliberative model of democracy is well-suited to framing it, enabling it, and illustrating its importance in preparation for democratic adult life. This last section explains how developing the above can be considered to be better citizenship education.

Lewis explicitly describes part of the function of classroom discipline as to facilitate good citizenship (Evertson & Weinstein, 2006, p. 1193). Citizenship is, however, a concept with a number of different understandings. The Crick Report in the United Kingdom claimed that good citizenship consists of three components: social and moral responsibility, political literacy, and community involvement (Humes, in M. Peters, Britton, & Blee (eds.), 2008, p. 45). Osler & Starkey (2006) seem to be describing something somewhat different when they evaluate literature on the promotion of rights and the understanding of national identity. Definitions of citizenship are typically divided into two categories (which also feature further subdivisions), namely ‘civil’ and ‘civics’ understandings of citizenship. This section shall argue that the ‘good citizenship’ that classroom discipline should facilitate is of the latter model.

The widespread modern definition of citizenship was established by Enlightenment thinkers concerned with rights and responsibilities in the nation-state. Social contract theorists who held this understanding such as Hobbes proposed theories on which the next chapter develops in detail, but their understanding of citizenship is not necessary to adopt in order to build on their other work. A widely-referenced expression of this understanding is given by Marshall (T. H. Marshall, 1950) who divides citizenship into three elements. Marshall’s citizenship is a *civil* citizenship, concerned with the status of membership of (most typically) a nation-state. This citizenship consists of the civil, concerning liberties and rights; the political, concerning participation and representation; and the reduction of social inequality. This is commonly described as the ‘liberal’ model, and is not the focus of this section as it

concerns status, rights, and institutions; properties, as opposed to activities. This thesis is specifically concerned with one component of citizenship — education for democratic participation — and considers specific elements of citizenship to establish that the restorative discussions addressed contribute to it, rather than undertaking a comprehensive analysis of what conceptions of citizenship of lesser relevance entail.

Civics (often ‘civic republicanism’), on the other hand, is concerned with activities, rather than states. It is a bottom-up model of citizen activity, rather than a top-down model of qualities and opportunities ascribed to them. The rational restorative conversations proposed in this thesis concern productive engagement with other people and systems, and the exploration of conditions that inform the best solution to problems. While such discussion and investigation can involve learning about specific rights and conditions of the state, it does not necessarily do so. Participation in deliberative democracy is about community involvement rather than developing awareness of specific conditions of state membership. As Tully describes it (in M. Peters et al., 2008), civics exists in relationships, and not institutions. This understanding also accords with the democratic theorists referred to above: at least part of citizenship *education* in a democracy should address developing the skills to participate fully in a democracy, as expressly stipulated in Gutmann and Thompson’s principles. Participation in civic citizenship can entail learning about the structures of the state, but learning about civil citizenship does not involve practical engagement with its structures.

There is an argument that it should, given that Marshall’s third component of civil citizenship concerns the reduction of social inequality, and that this is a practical endeavour. Civic citizenship, however, can encourage a critical evaluation of social conditions and action in accordance with this. Restorative discipline is specifically suitable for developing such a critical understanding because the conflicts it addresses provide opportunities to consider fairness and the justification of authority. Outcomes are chosen with consideration for their effects on the whole community. Education for the reduction of inequality can be understood to comprise part of civic citizenship, and attention to fairness in the impersonal reasoning described in this chapter helps to promote this end. Civil citizenship education, on the other hand, can be limited in its criticality: it is necessarily situated within a specific legal or constitutional framework, and instruction about such frameworks will not necessarily

reveal if they are unfair. A limited factual education about the conditions of civil citizenship may comprise tacit submission to (near-) ubiquitous global frameworks, such as the justification of nation-states or the ownership of land. This is because opposition requires the ability to envision alternative structures. In contrast, under deliberative democracy such conditions and principles (like all other conditions and principles) are not placed beyond the scope of evaluation and democratic consideration. If discussion of social and economic structures arises then it is less educative not to raise arguments both for and against such structures, and consequently to raise the possibility of their inherent unfairness. Inclusion of education about a certain topic, and not of its alternatives, has effects beyond simply educating about that topic, as discussed in chapter two on the effects of the omission of consideration of the broader goals of discipline in classroom management textbooks. Deliberative democracy depends on informed participation, and a critical approach to social structures is consequently important as citizens are incompletely informed and potentially passive to the existing state without it. One is further removed from the ability to fairly evaluate the best rational outcomes of a deliberative discussion the more existing conditions of social life are considered immutable. It is the usage to which civil and civic citizenship education can be put in this context that renders the greater desirability of the latter the most clear: Humes (in M. Peters et al., 2008) writes that some use (civil) citizenship education to promote international understanding and welfare, perhaps through the comparison of the entitlements of different citizenships, while others may use it to extend economic and social advantage, by teaching certain principles without exposure of their alternatives. To promote citizenship education without examining what it is thought to entail can lead to confusion and disagreement over the intended goals.

The concluding argument of this section is that discussing the justification of political authority can work to reduce injustice as part of practical civics. This builds on Sen's (2009) approach to justice, because it accepts a reasonable pluralism of conceptions of justice in a secular state and allows discussions of these conceptions to follow Gutmann and Thompson's deliberative democratic principles. A key feature of Sen's model that enables this is his divergence from Rawls in not establishing justice as a principle of greater primacy than democratic conditions. This can be explained as follows: Sen's model is concerned with making incremental improvements to people's conditions through practical reasoning

rather than targeting a terminal vision of perfect justice. It focuses on the reduction of injustice rather than requiring a complete conception of maximal justice before working towards it. Actions in support of such reductions of injustice can be justified via convergence rather than consensus, as distinguished above, and subject to democratic deliberation in communities where there is disagreement over what justice entails. If faced with three plausible options where option 1 is less unjust than both options 2 and 3, for Sen it matters less to establish a ranking or rationale for evaluating all three than to take the action that comparatively reduces injustice the most. This seems a better fit for democratic debate over disciplinary actions in the school, where idealising each situation would be impractical. There is often a short timeframe for discussion and a need to take practical action. Sen illustrates the problem of different conceptions of justice with the example of which of three children should be allocated ownership of a flute (Sen, 2009): Anne claims she should be given it as the only one who can play the flute; Bob on the grounds that he has no other toys; and Carla on the grounds that she made it. By their different conceptions of justice, the utilitarian hedonist would award the flute to Anne, the economic egalitarian to Bob, and the libertarian to Carla. Sen's position defends that these are all reasonable, and thus that there are a reasonable plurality of conceptions of justice. Therefore its conception should come after democratic discussion, following Gutmann and Thompson, rather than prior, following Rawls. If there is disagreement over principles of justice that it might be necessary to teach under a civil model of citizenship education, they can rather be engaged with in democratic deliberation. Consequently, discussion participants can develop and act upon an improved conception of justice as part of practical civic citizenship.

It is worth noting that such reflexively challenging discussions can be encouraging of stability as well as criticality; the two do not have to be opposed. Discussing the rules of a community, shaping them, and evaluating the fairness or otherwise of the reasoning that underlies them can support a sense of community belonging, as well as enabling criticism of some of its aspects. If a system is open to responsive change, like all principles under a deliberative democracy, then one can be critical of it while still being a willing member of it.

As well as developing intellectual understandings of the justification of authority, deliberative discussions are more likely to develop the disposition to act in accordance with it than comparable theoretical learning in isolation. This is because they lead to exposure to



its benefits in practice. Civics education programmes focusing on knowledge transmission alone have limited effect (Lewis, in Evertson & Weinstein, 2006, p. 1194). Experiencing classroom democracy can serve as preparation for democracy in adult society, and deliberative democracy can be considered a complete theory of civics on its own. The practice of authentic deliberation in restorative conversations can constitute good civics and thus contribute to citizenship education, as well as addressing the second and third goals of good school discipline.

This chapter has argued that in a school or society where a plurality of moral views is accepted, just authority will have a basis in justified political authority in the absence of moral agreement. Engaging in rational reasoning about justified political authority constitutes preparation for adult democratic life as understanding the operation of a society's public institutions, and developing the ability to participate in their modification, is an important part of free and equal democratic participation. Deliberative democracy can constitute an education in practical civics, and restorative discussions that model and develop the capability for the above reasoning can develop the understanding of justified authority, a necessary part of good school discipline as much as simple classroom management.

In conclusion, the extension of restorative practices to consider the rational justification of political authority leads to better school discipline, and serves as citizenship education in democracies which value public reason. The next chapter suggests a comprehensive yet comprehensible model by which this can be done as part of a classroom management strategy, rather than requiring academic teaching time specifically devoted to it, and one that can be explored to whatever level of depth both pupils and teachers desire.

## **Chapter 5**

### **Social contract theory in restorative discipline**

This chapter examines theories of social contract, and proposes their usefulness for developing pupils' understandings of rationally justified authority in restorative discussions. The first section defines social contract theory, outlines its benefits for restorative discussions, and then presents different formulations by which it can be understood. There is particular focus on contemporary contractual and contractarian theories of social contract, and how both of these can be beneficial in different classroom situations. This is followed by a description of how a teacher might choose between different ways of explaining fair outcomes in accordance with them.

The second section discusses how social contract theories can fit into and support the questioning that takes place when considering fairness in a restorative discipline discussion. This section describes how the principles discussed fit with everyday language and how explanation of fair outcomes can be presented in a simple manner, with scope to explore them as deeply as is necessary or desirable for discussion participants. The practicality of the training required for such discussions is considered in comparison with the training required for other restorative interventions, and also the ease of having these educational discussions outside of timetabled academic teaching sessions.

### **The suitability of social contract theory for exploring fair justification in conflict resolution in schools**

Social contract theory (SCT) is concerned with the legitimacy of the authority of the state over the individual. SCT can also be applied to smaller communities, such as the school environments under discussion in this thesis. SCT seeks to establish principles that can justify rules which underpin a society to which all involved parties would reasonably agree. These are important for developing an understanding of the rational justification of fair outcomes in conflict situations, such as those addressed by restorative discipline. SCT can be understood as asking what restrictions an individual would hypothetically accept to their

freedoms in order to have their other freedoms protected. The foundations of thinking about social contracts are themselves subject to vigorous philosophical contention. Two major areas of difficulty with establishing how parties would ideally reason are in establishing what principles can be justified to all reasonable citizens or persons, and whether a situation so stripped of value judgements is even possible.

These are not problems for its adoption in practical reasoning in schools, however, as there is no universally accepted model or solution for the justification of social rules, and SCT provides scope for exploring other possibilities effectively. The claims behind an initial, pre-contractual state are minimal compared to other models, and can be considered provisional and subject to alteration in the course of discussions in accordance with the model of deliberative democracy discussed above. This is important for such reasoning to be acceptable in a secular environment to those of a range of different moral commitments, as discussed previously. The aim of suggesting thinking in a contractual manner is to open up reasoning and discussion of fair outcomes, rather than to suggest that it is the 'correct' theory for understanding social co-operation. The discussion of a 'state of nature'<sup>42</sup>, in which one has no obligations to others, is unlikely to reflect a state that pupils experience in reality, but as a concept for beginning discussion of the grounds for social obligation it is very useful, as pupils may often start from a claim or assumption that they are not obliged to look out for anyone's interests but their own. Building classroom communities, as involved in the discipline systems proposed in this thesis, requires pupils to understand that the obligations they have to others in their communities are justified by more than the will of a teacher. Beginning from an assumption of only negative freedoms (i.e. freedom from the intervention of others) gives space to consider from first principles why consideration for others might be justified, and can support discussions of fairness that develop the understanding of justified political authority required for good school discipline.

A further theoretical concern about social contract theories actually makes them more suitable for classroom situations. This is the concern that one is unable to opt out of an idealised contract when one knows one's actual personal circumstances, and that this may not be justified. This is a charge that can also be laid against the compulsory education

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<sup>42</sup> Hobbes, from whom this term is drawn, is further discussed below.

system, rendering SCT a highly appropriate model for the exploration and challenge of this context. The choice of whether or not to attend a formal educational institution has usually not been given to a child, and been made instead by a parent or caregiver. This is also reflective of how individuals have not been given choice about being born under the authority of a particular nation-state. Whether this involves tacit consent or institutional force, the problem applies similarly to the practical situation of schools as to the theoretical model of SCT. A pupil may have no ability to opt out of formal schooling against the will of his or her parents,<sup>43</sup> but this is similar to the practical impossibility of opting out of certain aspects of a nation-state's governance. For example, even if living remotely, one is still subject to the enforcement of the state to participate in its justice system and allocation of property rights. If such an issue ends up being highlighted in SCT discussions then it is not a problem with the theory in this context so much as a good illustration of possible coercion in the organisation of our state institutions. It exposes some of the compulsions to which citizens are subject from which they cannot easily escape, even if they disagree with their justification.<sup>44</sup> These problems can then be discussed in restorative conversations. The details of how particular social contract theories deal with such problems are expanded upon below.

Social contract theories are rational models, and are concerned with the taking of perspectives other than one's own. They fit with assuming a reasonable pluralism of moral positions among pupils, adults, and citizens, and allow for a second-order approach to justice that can adjudicate between them in cases of conflict as explained in the previous chapter.<sup>45</sup> Understandings of fairness and justice can be evaluated within a social contract framework, in a similar manner to deliberative democracy serving as a second-order political theory as described above. Contemporary formulations of the social contract are also for the most part hypothetical. That is, they are concerned with how individuals might ideally reason, rather than discussing the existence of an actual contract to which pupils

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<sup>43</sup> The interplay between children's preferences and those of their parents is addressed in detail in chapter six.

<sup>44</sup> The modern (c.17<sup>th</sup> century) social contract theorists were writing in an environment where such situations were much more accepted as the norm. The notions of a government requiring consent of the governed to be legitimate at the time were weaker than now, and acceptance of unjust power structures less remarkable.

<sup>45</sup> A second-order framework is one that allows for the evaluation of first-order theories rather than making a claim to being a solution itself. Social contract theory is not claimed to be the 'correct' conception of justice (which would be a first-order theory), but one that enables the discussion of what fair resolution might be in situations of conflict.

have tacitly consented. While there is plenty of scope for the practical agreement of concrete classroom contracts, the role of social contract theory in this argument is to help pupils (and teachers) develop a rational understanding of why a disciplinary system that seeks to make fair judgements can be justified, and why particular grounds for a judgement might or might not be fair.

Some understandings of social contract principles are more involved than others, and the explanations below include discussion of how to choose an appropriate model to help pupils' understandings in a given situation. A comparison between them shows that social contract models can be used to frame a variety of situations appropriately, present conflicts simply when required, and also explore the justification for a judgement in more depth when that is helpful. Classroom events can be clearly linked to common questions, principles, and objections that arise in disciplinary situations. Students often ask why a ruling goes against their preference, claim it is not fair, or behave in such a manner as to indicate that their compliance is to do solely with obedience to the threat of force rather than the recognition of any authority in either the adjudicator or the decision that ought to be obeyed. The models explored in this chapter can provide a succinct way to help pupils' reasoning progress beyond this, as considering social contract issues can stimulate thinking about the fair resolution of conflicts, including the consideration of when not getting one's own way is a reasonably justified outcome. It involves the exercise and development of rational, impersonal thinking in addition to the empathic work already done in restorative discussions, where the feelings of other parties are considered.<sup>46</sup> By this approach, the rational claims for others' wills, needs, or rights to take precedence can be explored through a model that can be expressed simply yet has a high degree of explanatory power.

A further benefit of such models is that they allow clear explanation of the separation between what justice requires should happen (the impersonal fair judgement incumbent upon an institution or its agents to enforce) and what an individual might prefer to do. Thus a child arguing for their own benefit can begin to develop an understanding of what is

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<sup>46</sup> Chapter eight will address the distinction between emotional and rational approaches in more detail.

involved in taking another's perspective, and come to understand the role of a disciplinary staff as implementing fair outcomes, rather than pursuing personal agendas.<sup>47</sup>

## **Models of social contract theory**

The best models of social contract theory to choose for classroom purposes are likely to be those that can easily be made clear and comprehensible to teenagers. Such theories can be explored from the simplest principles of co-operation, requiring little more than an understanding of individual desire and the recognition that others have desires of their own. They can be used to model disagreements in a broad range of situations, both with individuals and institutions.

As a student gains a deeper understanding of the nature of co-operation and justice, their changing conceptualisation may have some parallels with the chronological progress of academic thought about social contracts. While formal cognitive development will be addressed in chapter seven, tracing a path from the earlier models of social contract to the most recent broadly highlights increasing levels of nuance and complexity, and may be useful as a guide to understanding how a grasp of social contract can develop as one begins to engage more empathy and think more impersonally. Consequently, this section describes this progression as it provides a useful illustration of the range of models available to teachers under the general approach of SCT, with the earlier featuring a higher degree of accessibility, and the later higher levels of explanatory power and values that better fit those of restorative communities.

As a starting point, Hobbes' view of co-operation requires little in the way of consideration for the perspectives of others, and thus is accessible even to those with no inclination to think about others' well-being. He describes 'the condition of man . . . (as) a condition of war of every one against every one, in which case every one is governed by his own reason, and there is nothing he can make use of that may not be a help unto him in preserving his life against his enemies' (Hobbes, 1651, Chapter 14). While he describes the lives of those

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<sup>47</sup> The question of whether or not one *should* accept the orders of institutions legislating according to the general will is a fascinating one, but not necessary to explore directly here. 'Why should I obey the law?' is less relevant than 'This is why the law is justified, and these are the consequences for obeying or breaking it.'

holding this perspective as ‘nasty, brutish and short’, such a position may prove to be a useful model for those least inclined to consider others’ preferences in any way when they conflict with their own. It provides for recognition of what happens in the absence of agreement when two people’s desires conflict. Even the most self-focused individual can start from Hobbes to consider how they might want to achieve certain goals but are confronted by others with opposing views, and wonder how resolution can be achieved in such situations. With a Hobbesian model one can develop the beginnings of thinking about political justification, and recognise the possibility of standing outside oneself in a third-person position to evaluate one’s own claims from another perspective. Some students may never have been required to consider anyone else’s benefit but their own. This is also a crucial skill for full participation in democratic deliberation as such discussion necessitates the consideration of the weight of others’ concerns rather than the mere advocacy of one’s own.

This is also supportive of all five key competencies in the New Zealand Curriculum (‘Key competencies / Kia ora - NZ Curriculum Online’). It provides a practical context where students are able to practice thinking about co-operation and fairness in matters of direct relevance to their own lives. Such deliberation not only is an excellent way to address the curricular pillars of ‘Participating and contributing’ and ‘Relating to others’, as practical community discussions require active participation rather than passive acceptance of rules, but also a way to encourage the taking ownership of one’s own goals and learning that is central to ‘Managing self’. That it also involves ‘Thinking’ and ‘Using language’ emphasises that disciplinary discussions such as these can be considered core educational activities in schools, rather than social adjuncts to an academic curriculum.

Locke’s impartial judge (Locke, 1689/1988) may be a more attractive model than that of Hobbes for a different profile of student. This is something of a precursor to Rawls’ original position as described in the previous chapter, in that it involves considering the perspective of one who is not directly involved in a situation in adjudicating over a fair outcome. Many teenagers do care deeply about fairness, and while Locke’s judge was initially conceived to rule over disputes concerning property rights — the focus of his approach to social contract — it can also be used to adjudicate in wider situations of disagreement. Such a model may enable an older student to engage his or her rational capacity alongside deeply held

emotional or moral convictions. Locke's 'freedom under law' may be a productive model to deploy for those who construe good behaviour as comprising of the following of authority; Kohlberg's level four, as will be described in chapter seven.

This section addresses some models only briefly to illustrate the range of possible approaches available for framing discussions in terms of social contract theory, and their usefulness for particular situations. They are presented to demonstrate the flexibility of an overt social contract framework, with the theorists of particular focus following in the next section. Such a broad range of possible approaches can be helpful as restorative conversations are intrinsically responsive to the concerns their participants raise. No single inflexible framework would be the most appropriate in all situations. Broad guidelines and simple frameworks, especially those that can be adapted both to a teacher's preference and a pupil's orientation, are much more readily deployable. They fit neatly with the structure and philosophy of the current Positive Behaviour for Learning initiative in New Zealand which is illustrative of just such an approach: a change in whole-school philosophy, supported by strong academic evidence, and deployed via a number of strategies to meet certain core goals. Adding an attempt to develop rational thought to the Restorative Discipline strand of PB4L is a small adjustment in practice, conceptually substantial, similarly flexible, and fits the approach of the overall initiative.

Pursuing the idea of progressively more-involved approaches to the social contract (but with greater explanatory power), Rousseau's (1762) direct self-government under the 'general will' bears a closer resemblance to the institutional arrangements to which the arguments in this thesis lead: the conscious establishment of structures to which the people collectively agree and consent to follow, such as democratically-agreed classroom behaviour contracts. Rousseau argues that democracy is the best solution for obtaining desirable protections from others harming you through the unrestricted exercise of their will, beliefs, or desires. His line of argument about being 'forced to be free' may not be particularly useful for classroom situations<sup>48</sup>, and is an example of an element to omit when pitching discussions of social contract at an appropriate level. Presenting complete philosophical systems in short conversations is impractical. A productive discussion that might follow from

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<sup>48</sup> It builds on specific presumptions about reason and individual value that would be quite complex to explore.



Rousseau's principles is whether a behaviour contract agreed at the start of the academic year remains binding when the will of those subject to it has changed; perhaps these are also to be considered provisional and subject to deliberative revision in accordance with the democratic principles presented in chapter four. The discussion of SCT in restorative discipline is not primarily intended to teach social philosophy, but rather to serve as a simple and robust basis for the understanding of rational adjudication between persons in pursuit of impartiality and justice.

Rawls (1971/2000) may prove an instructive point of reference because of the centrality of principles of impartial fairness to his conception of justice. This thesis has already discussed his concept of the original position, as well as how the present argument parts from his theories in favour of Sen and Gutmann to allow for provisional, rather than absolute, conceptions of justice. Rawls' concept of fair resolution from an impersonal position does, however, provide a clear model of how this thesis handles adjudication over otherwise irreconcilable conflicts. Imagining oneself as an impartial judge can be a practical exercise to help students decide between two competing positions. Concepts of fairness can be related to an abstract model that is more sophisticated than the basic ideas of reciprocity above and yet is still accessible in the hurried context of many school environments. As in Rawls' work, public reason is integral to the models of deliberative democracy previously discussed, and this enables further parallels from a Rawlsian model to discussions of broader social conditions. This project envisions the repeated application of impersonal, rational adjudication in matters of behavioural conflict coming to model ideal discussions in democratic environments, with a greater weight given to publicly-accountable reason than to teachers' personal authority.

Rawls' original position and veil of ignorance face a serious conceptual challenge over whether or not it is possible to reason from such a state, before an individual's adoption of values. For example, the disposition towards social agreement and reaching fair compromise can itself be considered a value, though Rawls argues this rather to be part of the 'basic structure of society' (Rawls, 1971). This problem is, however, not relevant for the practical consideration of fair resolution in school conflicts. In this context there is no need to posit the ability to hold a pre-human 'neutral' position to decide between two claims, as the system is not being utilized to establish the initial conditions of a society. This society

is already established, and for the practical purposes of immediate conflict resolution the model is rather used to establish impartiality on relevant moral or factual disputes and consider which outcomes or solutions might be the fairest (or the least unjust, following Sen's position on progressive improvement as explained in chapter four). A third person can be imagined to judge between two positions, with moral neutrality demanded only on the relevant issues under discussion. This theoretical difficulty can also prove instructive: an examination of whether such a position already carries certain presumed values, and whether the powers embodied in the holder of that position are fair, is educative about the effects of power structures and the sources of authority on pupils' (and teachers') lives. Involvement with real life, personal examples has greater effect than any abstract discussion of such theories in a classroom, as defended above on the benefits of a practical education in civics over an education in civil citizenship. There remains scope for more detailed exploration of the conditions of impartiality according to the ability and interests of those involved in a discussion. One could ask not only how a hypothetical third person might rule on a situation, but if the issue is raised of how it depends on that individual's values, one can also prompt thinking about what might be decided if someone who did not care about relevant values were the judge, or how they might judge in an analogous situation. Fairness can be introduced simply, but explored in depth.

The existence of a liberal democratic context in which these real-world events take place also avoids the immediate need to address the major communitarian criticisms of Rawls: that he is fundamentally liberal (in the sense of idealising a rational, independent model of a human in a state supposedly prior to value), and that that is problematic. While it may be, the acceptance of being limited by existing setup of our nation-state renders this an academic question beyond the scope of practical classroom reasoning. This is again no inhibition to education about the issue in schools, and no obstacle to seeking the least-unjust resolution possible to conflicts. While application in a live context strips social contract theories of some interesting issues in their justification, it does not impede the productive application of their concepts to developing understandings of rationality and impartial justice. The argument of this thesis remains a practical proposition about how to extend particular discipline systems in order to improve students' citizenship education.

## **Contractarianism or contractualism?**

Contemporary social contract theories are commonly divided into two broad categories: the contractarian and the contractual. These categories are covered here in detail as they describe philosophically-developed positions that can appeal to students in quite different ways. Both feature the same core principles of attention to hypothetical rational reasoning, but contractarian approaches appeal to self-interested motivations while contractual approaches prioritise finding mutual agreement. These two perspectives describe practical models for evaluating fairness in restorative discussions of conflict resolution, and offer a considerable degree of both precision and simplicity. This section argues that both are of use for restorative conversations, where a teacher may initially choose the most effective model for connecting with a particular audience to teach a new concept and then allow discussion to develop and consider opposing views in due course.

Given that restorative discussions focus on responsive conversations, it is unlikely to be greatly significant what one's individual preference is when choosing which formulation of social contract theory to deploy in approaching a given situation. The accessibility of a model to specific pupils is of greater practical relevance. Reference can be made to theories which seem the most easily relevant to a given situation and then discussion can progress from there according to a pupil's responses.<sup>49</sup> A teacher engaging in a restorative conversation does not have to propose any model of truth, rather provide tools and stimulation to support educational thinking on the way to reaching an acceptable consensus. Making even simple methods available here is a great improvement both over traditional discipline systems that do not examine the justification of authority, and over attempts to explore authority without the knowledge or framework to progress as far as a convincing justification, in which situations explanation can appear still to terminate with coercion in the shape of a teacher's assertion that something is right.

Theorists of social contract differ over whether a neo-Hobbesian (contractarian) model, such as that of Gauthier (1986), or contractualist approach, such as that of Scanlon (1998), is the more coherent approach to social contracts. A more appropriate question for their school implementation is which of these is likely to be more accessible to and educative for

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<sup>49</sup> The next section of this chapter addresses the practicalities of such questioning.

students in a given context. Both approaches bring benefits in different areas, as expansion on their claims will make clear. This will then be followed by explanation of how both are of complementary benefit to restorative discussions.

For a contractarian, rational action is maximising the satisfaction of one's own subjective preferences: a different usage of the term 'rational' from that of previous chapters. Barry (cited in Gutmann & Thompson, 1996, p. 21) argues that this is pure assertion, and that one can counter-assert that it is 'equally rational to care about what can be defended impartially ... The virtually unanimous concurrence of the human race in caring about the defensibility of actions in a way that does not simply appeal to power is a highly relevant supporting consideration'. This highlights a core difference between contractarian and contractual models, namely to what degree self-interest informs rational behaviour. Gauthier's model of self-interested individuals, similar to that of Hobbes, might seem appropriate for opening up conversations with the self-centred, but may be inappropriate for school environments in the following number of ways.

Gauthier claims that the maximisation of self-interest *is* morality. This is a significant divergence from the separation of justice and morality in this thesis, where justice is that which can adjudicate between competing conceptions of the good. This claim of Gauthier's is one that does not need to be made for addressing contractarian thought in restorative conversations, and one that might alienate potential audiences. If a system were to claim a moral scepticism, and that justice is the virtue of note, then this would be unappealing to a large proportion of the potential audience with different moral convictions. Many schools and teachers would want to instil that there is more to morality than this: besides the clear example of faith schools, numerous institutions promote the cultivation of particular values in their students that they believe to be morally good. While in practice this claim will be barely distinguishable in many situations, with appeals being made to goodness instead of justice or rightness in a restorative conversation, the ability to respect individuals' differing moral positions is an important aspect of what makes the discussion of justice a useful element of education in a pluralist democracy. Presenting this as a rival moral position of its own loses this impact, even if an individual does not need to accept it and sees it merely as a competing view. It would be helpful to distance the political from the moral claim, and indeed it is not too problematic to do so: Gauthier's claim can be argued not to be a

complete account of what we might want to call morality, as it addresses neither 'moral' feelings towards others which we might want to attach to such a theory, nor, crucially, why his model needs to be considered 'morality' at all. The amoralist's position can remain intact, and questions of justice can be discussed in the realm of political theory rather than individual ethics.

While the grounding of Gauthier's model in formulations of the prisoner's dilemma might provide an excellent mathematical teaching point, this is not relevant to its use in restorative discussions and his focus on self-interest may be unpalatable to school leaders seeking to promote other forms of social change in their school. Teaching children that they are fundamentally self-interested may not be something teachers want to encourage: the transformative (and often negative) power of giving children labels is well-attested,<sup>50</sup> and if a lack of regard for others is so legitimised then many would fear accompanying changes in attitude that character educators would deem undesirable.

On the positive side, the lack of historical agreement needed to ground a contract in Gauthier's terms fits with the involuntary situation in which many secondary school-aged citizens find themselves in having to go to school. One does not need specifically to have agreed to one's present conditions in order for a contract from such a position to be negotiated. The model remains an imperfect fit, however, as Gauthier's initial position has to be arrived at non-coercively, which is plainly not the case in most situations of school attendance. If force can be used against those who do not wish to enter a social contract, he considers it illegitimate. Perhaps the greatest strengths of Gauthier's model for the purposes of this project are its focus on self-interest (for suiting some students' attitudes), that it is philosophically contemporary, and especially that Gauthier's hypothetical contract is a thought experiment to find practical rationality rather than a specific agreement. Finding rational solutions in the abstract is a key skill such discussions aim to develop. The end goal for Gauthier is the benefit of individuals. In the context of classroom restorative discussions, if participants cannot agree on what is of collective benefit or moral goodness, then public reason can at least establish a collective means of compromise over best outcome; the realisation of individuals' aims, whatever they may be, with prisoners'

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<sup>50</sup> Children may internalise and adapt to their labels, regardless of their accuracy, and labels can encourage pre-judgement over nuanced evaluation. See Moncrieffe & Eyben, 2007.

dilemmas governing the adjudication between competing interests, rather than some Kantian formulation of rational obligation as contractualists would prefer.

One of the problems identified with a contractarian approach that is particularly relevant for its application in public schools is that it can lead to undesirable outcomes for those with particularly high levels of need or disabilities in certain areas. It is not a considerable stretch to see approaches based around self-interest as leading towards situations where those who an individual sees as lacking in value can be treated without basic respect, as if excluded from all social obligations. This is because in contractarian theory those who cannot contribute to a social contract (however that is construed by an individual who might be a fellow party to it), or who need an extreme level of care, may be seen as not ever likely to provide the reciprocal benefits that one expects from entering into a contract with another. If formulating a contract on the basis of pure self-interest, a strict interpretation of Gauthier would see the demands of justice and contract as not reaching as far as these individuals: no direct value is ascribed to persons *per se*.<sup>51</sup>

This is arguably reflective of the contemporary social order outside of schools. Worldwide, many right-wing and neoliberal agendas continue to place emphasis on people's worth being contingent on what they can produce rather than any intrinsic value to their existence or well-being. Economic contribution and shareholder return are prioritised over the quality of individual lives. The discussion of economically-rational policy may entail reasoning similar to that described above, in which there is no economic argument for diverting resources to those who cannot contribute to production. While it would be tangential to discuss such issues in detail here, a contractarian model can highlight such potential shortcomings for discussion, and pupils can consider whether these are issues of morality or issues of justice.

While lack of consideration for individuals with significant needs may appear abhorrent in the abstract, in the applied context of schools the contractarian view can yet be defended as this problem disappears with the addition of a moral system that prohibits such behaviour; a personal morality at an individual level distinct from that of justice and the political

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<sup>51</sup> Cudd (2013) makes the case that even insurance-based defences such as Becker's (2005) require conditions beyond those Gauthier establishes.

structures which this thesis addresses. This would be a problem for Gauthier, for whom maximisation of self-interest *is* morality, but not for those involved in a moral discussion under a political system guided by his principles. Consequently, a contractarian model for resolving situations of conflict may prove a useful referent in restorative discussions for its clarity and focus on individual interests when working with individuals currently inclined to a selfish perspective; when teachers and restorative discussion facilitators do not wish to begin from positions that demand recognition of the value of others' preferences and desires, a contractarian model can establish at least an instrumental justification for co-operative behaviour.

Given the significant ethical considerations this approach involves, the alternative formulations of contractualism may seem preferable. Contractual models can require more from students to participate productively in discussions — notably, the ability to consider the perspective of others — and so are less accessible than those which adopt contractarian reasoning. Contractual principles, however, may be better for improving citizenship through restorative discussions as they involve consideration of others' perspectives rather than assuming individuals are wholly self-interested. The central difference between the two approaches is that where contractarian views feature satisfaction of competing interests, contractualists seek to pursue their own interests in a way that can be justified to others who have interests of their own.

This foundation on a principle of mutual acceptability<sup>52</sup> might make contractualism initially seem more complex to adopt than contractarianism, but the crucial changes in emphasis can be modelled in restorative discussions without needing to explore the underlying theory behind such models. While it is more demanding to consider the impact and value of the self against others than raw self-interest, such thinking is already asked of students in other areas of school, such as in the direct consideration of ethics, or classes on either religious studies or global wealth distribution in geography or economics. The thought processes involved in social contract reasoning are of more value than the individual conclusions pupils reach — that is, developing the disposition to consider one's impact on others is typically more important than the outcome of one individual disciplinary situation — and

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<sup>52</sup> More precisely, on principles which no-one would reasonably reject (similar to Kant's principles that all would reasonably accept).

steering pupils' thinking away from a focus on self-interest is something that many schools might deem desirable as an independent moral goal. Such moral goals can be provisional and open to overt re-evaluation — and furthermore will necessarily exist, as it is not possible to create a value-free environment for teaching. As with democratic deliberation, a fixed conception of the outcome of a discussion is not privileged over the process: educators may try to take students as far as they can from their respective starting points, but do not have a necessary principle or target to reach. There is no specific level of concern for others that counts as sufficiently educated for citizenship in a state which sets merely legal boundaries, for the most part, for adult participation in society. Therefore one can simply seek to educate each individual as well as one can, given a plurality of changing conceptions among different schools and teachers of what that entails.

As with the less attractive principles of unmitigated self-interest underlying contractarianism, the harder principles of contractualism can be understood and referred to if needed, but do not necessarily have to be presented in most cases. Scanlon is a leading contemporary theorist of contractualism, whose work can be contrasted to that of Gauthier. His views are predicated on an argument that the distinctive factor of human life is the ability to evaluate reasons and justifications (Scanlon, 1998). The capability to apply rationality is held central to the evaluation of morality, a principle that meshes well with the rational approach to justice adopted in this thesis. Addressing the foundations of his argument is not necessary for the discussion of fairness to be based upon them, and may potentially cause problems. For example, the idea of valuing others because of their capacity for rationality has the potential to lead to a half-understood idea having some negative consequences, perhaps where those 'less rational' are held as 'less valuable' in the schoolyard, when in fact the degree of rationality does not scale with (but simply establishes) equal consideration as a reasoning person. Contractual models do, however, have many contrasting strengths to those of contractarian models for restorative discussions.

Scanlon's contractualism focuses on 'what we owe to each other' (Scanlon, 1998) by virtue of being rational creatures, and characterises right and wrong as that which we have good reason to do. This fits well with Southwood's position on the reason to be rational as presented in the previous chapter, where rationality is that which we owe to ourselves. The



equation of rightness with reasonable justifiability (more precisely, the equation of wrongness with that to which another could reasonably object) also fits well with intersubjectively-justifiable fairness, as defended above, even though this thesis does not claim that necessarily to be morality itself. In contrast to Gauthier's model, in which contractarianism is the whole of morality, a contractual system can preserve space for democratic discussion of moral principles at a level subordinate to a contractual political structure. There is no need for a solution that works only for practical purposes. The benefits of the system can be maintained while its very principles are under discussion; perfectly suited for institution and modification under deliberative democracy.

Unlike Gauthier, Scanlon does not present the social contract as encompassing the whole realm of morality, merely the realm of what we owe to each other. For Scanlon there may be other elements to morality, whereas Gauthier argues his model to describe the entirety of the moral domain. Scanlon's approach leaves scope for moral debates not to sit in immediate tension with the framework under which they are conducted, whereas Gauthier's justice requires its claim to also describe morality to be set aside when conducting evaluative discussions of other moral theories. A Scanlonian model fits with the principles laid out in the previous chapter, as the truth claims necessary to adopt such a model for conflict resolution are minimal beyond a commitment to rationality, and compatible with holding personal moral views that are not already in tension with being subject to a secular democratic state. Just as Scanlon's contractualism does not seek to define the whole of morality, neither does this thesis; rather it seeks an educational engagement with fair justification in conflict management.

There are still further aspects to a contractual model that make it appear suitable for restorative discussions. Scanlon invokes no veil of ignorance, in contrast to Rawls, being concerned with apparent justification to all rather than hypothetical justification from initial conditions. This makes a contractual model more immediately fit for application to existing, practical situations than Rawls' model of justice. For a pluralist approach to conflict resolution it is also superior to an implementation of utilitarian principles, and should not be confused with such. Utilitarianism would require some external judgement of well-being against which potential outcomes to a dispute could be compared, and this requires agreement on aspects of goodness and value. Valuing individual reasons, as contractualism

does, requires only concordance on rational reasoning itself, which is already necessary for the public discussion of justified authority, as explored in chapter four. Contractualism allows for a plurality of conceptions of well-being, and arguably also avoids the problem of aggregation<sup>53</sup> that utilitarianism faces, though this is contestable (Parfit, 2003, 2011; Taurek, 1977). Again, this fits an overarching political structure that can contain various ethical or philosophical orientations, rather than alienating those who hold certain positions. The ability of Scanlon's contractualism to bridge major approaches to morality to some degree, and embrace both principles and outcomes, is one of its great strengths.

Comparison with an alternative approach will highlight the usefulness of being able to refer to different models of SCT in restorative discussions. Parfit (1984, 2011) attempts to combine rule consequentialism, contractualism, and Kantian ethics. His approach makes a powerful claim to unify three major approaches to the study of morality, though is less accessible than Scanlon's as a teaching tool in restorative conversations because the focus on considering impersonal reasoning is more intellectually demanding than considering what one individual could reasonably reject. An individual making a judgement of a principle's unacceptability is one step less removed from considering basic notions of one person's desire in competition with another's, and subjective preference maximisation, and may be easier to work with than a complex deployment of thinking from an abstract third-party position. For practical educational application, one could visualise Gauthier, Scanlon, and Parfit as on a continuum of complexity, with gains in purported explanatory power trading off against simplicity of presentation. Gauthier is the most acceptable to the broadly self-interested, but neither requires nor necessarily develops respect for others' preferences as potentially equal in value to one's own, so serves perhaps best as a starting point for those disinclined towards reflecting on the consequences of situations for others. Scanlon allows for this, but requires the taking of a less self-centred perspective and may prove overly detailed for simple and brief explorations if one has to justify *why* one should care about the outcomes others obtain. A detailed philosophical composite such as Parfit may have considerable explanatory force and deal well with specific theoretical problems, but is

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<sup>53</sup> This is the problem that many formulations of utilitarianism face in allowing for one individual to face great suffering against their will for the sake of greater aggregate benefits elsewhere. Utilitarianism combines the value of outcomes, and so loses focus on fairness from the perspective of individual persons. Contractualism, on the other hand, considers each individual's reasoning and perspective.

likely too complex to be translated into simple understandings, on which the following section goes on to expand.

The detail of what approach to take to developing pupil understandings of justified authority is something that can be devolved to the judgement of a school or smaller community. Understanding the justification of authority is a requisite of good school discipline, but there is no need to stipulate a specific model of SCT to be adopted for its discussion. As with the under-defined aspects of PB4L policy, the principle of discussing social contracts can be suggested as an effective way to approach these issues, and decisions on the detail of the implementation can be devolved to those with local expertise in accordance both with practical suitability and a community's other values and preferences. A pragmatic choice of a model of SCT that seems to be the best local fit for a specific situation, individual(s), and specific learning goals may lead to the most productive discussions, as they can all address the necessary questions of fair justification. Just as chemistry students are initially taught a simplified model of electron shells, which is then scrapped as they progress in understanding, so a simplified model of the interactions that make up 'morality' or 'politics' is of great use; once students have begun to consider the terrain and manipulate the elements, more complex ideas can be introduced. Compared to the minimal attention the overt rational consideration of fairness is currently required to receive in school discipline, enabling these questions to be considered under any model that is practical is likely to better enable thinking about the justification of authority in school discipline.

In summary, contractarianism may be a simple entry point into considering issues of compromise for many students, but the likely undesirability of the self-centred perspectives to which it leads may make a swift transition to a contractual model desirable. This might be introduced as simply as by a change from asking 'what do you (both) want?' to 'what might you agree on?' The same techniques currently used for developing the consideration of community impact in restorative discussions can be used for the consideration of justice, and this exploration can develop through deliberative democratic discussion, as the following section explains.

## Application and practicalities

This section discusses how the models considered above can be used to support the development of rational thinking about fair outcomes in restorative discipline discussions.

While the material above is complex, the core ideas can be deployed much more simply, as illustrated in the examples below. Discussing what might be a fair resolution to a dispute can be tailored to the reasoning and theories most relevant to the concerns an individual student expresses. As an academic thesis, this document pays more attention to the detail of specific theories than is necessary for their classroom deployment. Similarly, works on the theory of restorative practice address concepts of restoration more deeply than the policy proposals currently being implemented. Questions of how far one can take personal responsibility for certain harms and how far one should be expected to make restitution can be deeply complex, yet are unnecessary to explore in a practical presentation of the system. Conversely, it would be a thesis in itself to construct a wide range of conversational templates for restorative discussions of justice. This section addresses their possibility, practicality, and similarity to existing structures in defence of the overall argument of the thesis — that such questioning is desirable as part of good school discipline.

### Questioning

Questioning to elicit consideration of fairness in conflict situations requires only subtle changes to the phrases and formulations already used in restorative discussions. Essentially, questions aimed at asking how another person might *feel* about something can be recast to explore what they consider might be a fair resolution. The exploration of what it means for something to be fair can progress through the course of questioning, proposed solutions, objection, and discussion. When two people want opposing things, a teacher can ask one what the other person might want, and how a third party might rule between them. Conversations such as this take place regularly in disciplinary contexts, but without conscious effort to communicate an understanding that there are principles a teacher is referring to for their decision, rather than his or her own personal authority. Many teachers will have played arbitrator in ‘he-said/she-said’ situations, but without attempting to present the grounds for the arbitration as impersonal. Explaining how such conflicts are

resolved can clarify explicitly that something is a matter of principle as opposed to a personal choice, spark consideration of such principles, and yet still use simple language. For example, if two pupils come to a teacher with conflicting claims, he or she might reply ‘How could someone choose between you?’ as opposed to discussing the concept of an impartial observer. ‘I’m not sure which of you is right. Given that I’m not sure, what would be a fair decision here?’ Asking questions that stimulate the consideration of another person’s perspective provides simple openings for conversations about fairness, especially as some may be keen to argue in their self-interest if they see the potential for gain! As in empathic restorative discussions, the adult involved can reframe the conflict to switch the perspective of the speaker and the other disputant, and then see if they maintain the same position. One might expect some to pursue their self-interest, and stick to their perspective (even if it might obviously not be the case – e.g. ‘Would you want him to give it back if *he* had stolen *your* toy?’ ‘No’, replies student 1, aware that this is untrue). This can be worked around in community discussion: put to a group of peers in class discussion time, the same resolution should not hold the floor when subject to public reason.<sup>54</sup> Similarly to how empathic RD discussions raise awareness of how others might be thinking and feeling, so can rational RD discussions raise awareness of when others might be justified in seeing a situation as unfair.

Depending on whether a student seems to find particular arguments convincing, either generic language can be used or discussions can be tailored to specific formulations of SCT. If a student seems unreceptive to recognising the value of others’ perspectives, a teacher can discuss a problem in terms of ruling between competing desires for the best possible outcome, in line with contractarian thinking. One can discuss the maximisation of subjective preferences with simple phrases such as ‘What do you want?’ ‘What does he want?’ ‘How can we compromise given that I need to be fair to both of you?’ Conversely, if a student recognises that both sides have a reasonable claim in a given situation, a more contractual form of discussion can be adopted: ‘What can you both agree on, even though you disagree about (x)?’ ‘What would seem fair to (the other party)?’ ‘What sort of solution might you both consider fair?’ Regardless of any attempt to address a particular set of justifications for

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<sup>54</sup> Well-facilitated public reasoning exposes such issues as a group that likes student 1 better than student 2, and so pretends that they think an illogical conclusion is correct. Discussions under poor conditions may terminate with such conclusions, but do not constitute the best outcomes of public reason. A different question is being addressed in those cases: namely, ‘Given that we want to support student 1 getting her way, how can we attempt to justify this within the discussion structures available?’

fairness, one can simply refer to 'fairness' and let a conversation follow the particular set of justifications that are suggested by the progressing argument. Claims about what an individual wants, or what might be a fair way to distribute resources, can be addressed with reference either to the satisfaction of competing preferences or the establishment of mutually-acceptable ground-rules as seems appropriate for the particular situation.

If a longer pastoral intervention is being conducted, such as a restorative conference as opposed to a brief conversation, rational fair outcomes can be explored to greater depth. This is similar to how students are already encouraged in such conferences to consider in greater depth the emotional impact of their actions on those around them. If a student persistently denies the value of considering the perspective and desires of others, one can promote rational thought about the situation as well as attempting to engage his or her empathy. 'Imagine if everybody else thought like this. What would happen when two people disagreed?' A student might suggest that it leads to a physical fight. They could then be encouraged to consider a similar situation where they believe avoiding a direct fight would be preferable, and how systems or compromises might be made to avoid this in situations where it is preferable to do so. Would such a system be applicable to the current situation? If not, why not? What would the other parties involved think? The principles of eliciting thought and reflection from the student can follow the same patterns as the empathic work in restorative conferences, and take place alongside them. This proposal is not for a completely new structure of intervention to develop the consideration of fairness, rather for the use of existing methods to address an additional concern alongside emotional restoration; one that is necessarily beneficial for good school discipline and for which restorative practices provide excellent opportunity.

These discussions, it is worth noting, refer to the fair rather than the good, and thus respect moral pluralism rather than demanding adherence to certain values which an individual might not hold. If neither party can agree on who has right on their side in a given conflict, one can explore how an impartial judge might rule in such a situation, and explore how this might be the only way to find resolution without picking sides (i.e. adopting a particular moral position). In a similar way to how the empathetic appeals of restorative conversations seek to kindle a student's desire to repair their relationships, rational consideration can engage a student's thought about how something might be fairly resolved by someone who

cannot reasonably take sides. This supports a more nuanced understanding of democratic decision-making by considering the need for impartial fairness as well as simple majority voting. If two bullies outvote one victim, their actions are not justified. The scope of the thinking encouraged by such discussions is limited neither to a present conflict, nor to the confines of school.

As simple an opening as asking a student ‘What might be fair?’ can present opportunities to develop an individual’s understanding of how a third-party position can have justifiable authority in conflict resolution, especially where there is a reasonable pluralism of facts or values in a particular dispute.

## **Training**

Restorative practices are sometimes perceived to be difficult to carry out effectively, partially because they sometimes require abandoning patterns of behaviour management that individuals may have practised for decades. The Ministry of Education in New Zealand has undertaken to carry out some of the hardest parts of initiating change through adopting the Restorative Practice programme in PB4L.<sup>55</sup> This thesis merely suggests supplementary questioning patterns be adopted within such models in order to stimulate thinking in additional areas.

It requires more knowledge than a set of prescribed phrases to develop a conversation about fairness — yet, crucially, this is no different from the implementation of restorative practices as currently understood. Training is usually required to carry out restorative interventions effectively, and ideally they should be embedded in a supportive school culture to be successful (as discussed in chapter three). Considering justice would require an extension to the knowledge base communicated in such training, but the support for implementing restorative practices is something to which the New Zealand government has financially committed and to which work on justice could be added. The Ministry’s existing commitment to training for restorative discipline covers the lions’ share of this: it would take little alteration also to consider fairness in comparison to the much larger commitment undertaken to provide training on how to employ restorative structures effectively.

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<sup>55</sup> Though this is still in a pilot phase, and consequently focused on schools where the management volunteers to participate.

Addressing fairness does not require the study and transmission of a great body of theory; understanding this at a level sufficient to discuss it is not significantly more complex than the concepts already required for understanding the restoration of harm done to a community.

Not all staff members need a high level of expertise in dealing with restorative situations. Being able to describe what an impartial observer might decide in a contested situation and why may be sufficient in many situations, similarly to how templates provided in RD training documents ('Support material / PB4L Restorative Practice / Welcome - Positive Behaviour for Learning') enable all school staff to engage restoratively with disciplinary issues in a basic manner as the point of first contact. Just as in current training for restorative practices, some staff will be more interested in pastoral matters or want to receive more training, and will be better-placed to take the lead in escalated situations; be they a community behaviour conference for an individual with serious difficulties, or a discussion about fair classroom rules in form time. In these situations knowledge of models of SCT may be helpful, just as knowledge of more advanced restorative techniques in other areas can be helpful for other conferences. Deploying a simple, contractarian model of SCT might be the most accessible for one teenage audience, and a more widely-scoped contractual understanding may provide a more nuanced picture in another situation, but teaching a basic understanding of these is not a significant addition to the substantial training already required when a school adopts restorative practices. Learning how to employ restorative approaches to harm effectively is a much larger commitment than learning to address rational as well as empathic concerns within such practices.

## **Opportunities**

Macfarlane, Macfarlane, & Margrain (2011) have written on the implementation and impact of restorative discussions in Māori communities, where the involvement of families and peers of at-risk individuals has proven beneficial in securing wide support for the methods and decisions of restorative conferences. It does not need to be only major disciplinary meetings such as restorative conferences that can feature overt, educational discussions of just authority and involve the whole community; such discussions can also be embedded simply in everyday disciplinary interactions as described above, and explored further as a



part of existing social and community time in schools. The logistical requirements of enabling such discussions are low. Many schools discuss community matters in form time, circle time, or some other pastoral period.<sup>56</sup> When the principles behind a specific conflict are impersonalised and abstracted, it can be discussed by a wider group for educational benefit. Pupils may well realise exactly what event instigated such a discussion and be particularly engaged with the concrete example, but this appears to do no harm — and perhaps the opposite, as studies of the sensitive situation of anti-bullying discussions suggest (Cameron & Thosborne, 2001; Johnstone & Van Ness, 2007, p. 339).

Such groups as these pastoral units are excellent spaces for deliberative, democratic discussion, enabling students to express and explore their perspectives and guide the best-reasoned thoughts of the group towards a better understanding of the problem at hand, and perhaps also a proposed solution. Participation in community meetings in democratic schools suggests that students are keen to establish fair procedures and principles when they know their voices are being listened to and respected. While their principles are a step beyond the proposal of this thesis, the citizenship education facilitated by democratic schools such as Summerhill and Sudbury Valley is excellent at developing facility in the formulation of effective rules in conflict situations (Vaughan & Brighouse, 2006). A facilitated democratic discussion can lead to significant learning about fairness and justice, and allows the pupils to direct attention to where the relevant questions are perceived to be rather than requiring an expertly-planned philosophical lesson. The demands of running such a discussion are different from, rather than greater than, those of facilitating a restorative conference. Those with a greater interest and knowledge base can lead more involved discussions and disseminate more detailed knowledge, as with staff taking leadership roles in other areas of school RD programmes. For the wider body of staff, the same principles as with existing RD implementations apply: school-wide training in the basics, with practice leading to increasing fluency.

Such conversations bear some similarities to the Communities of Inquiry implemented under Lipman's Philosophy for Children (P4C) movement.<sup>57</sup> As in those discussions, children raise the questions, and unreasonable answers are eliminated from the pool of possible

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<sup>56</sup> If time is specifically set aside for citizenship education, so much the more fitting.

<sup>57</sup> <http://p4c.com/if-then/issue-1-community-inquiry> provides a detailed exploration of this.

outcomes. The aim of restorative conversations, however, is different: rather than discussions led by trained philosophers and aimed at developing critical thinking skills more generally, restorative discussions of classroom justice are likely to remain concerned with the domain of fairness and require only a more specific body of knowledge. The emphasis is on understanding fair structures to resolve practical community problems as opposed to more general abstract exploration. Some of the critical analysis might be similar (for example, identifying ‘special pleading’, when a person or position is presented as an exception to a generally accepted rule without justification — such as an attempt to justify why you personally might not have to complete your homework, while everyone else still does), but restorative discussions also fit into shorter interpersonal interactions, and as part of classroom management techniques. They can occur within time that might otherwise be considered educationally ‘dead’, such as time that can be lost to maintaining classroom order in a less educative fashion, as opposed to requiring a timetabled slot for philosophical discussion. It is not unreasonable to project that some of the benefits identified as resulting from P4C programmes (such as improvements in reasoning and communication skills: Trickey, 2007) might also flow from similarly logical discussions in the context of restorative discipline.

When restorative discipline structures are in place, in the same way that the briefest interactions can be used to reinforce and support other restorative community principles when staff are invested in the programme, so too can thinking about justice and fairness be promoted: From simple interventions in, say, an argument over who has rights over a shared football, to potentially very deep questions that might take hours to explore (‘Why do we have to do French today when I want to play in the snow?’), thinking can be steered into a socially educational domain with questions such as ‘What would be fair?’. There are times when a short discussion is practical, and times when it is not, but referring to a continuing concern for fairness is not something that is universally done. Even such small references to principle are more suggestive of reasoning than abrupt, closed, responses and orders, which can divert a questioner away from any reflection on the values and compulsion behind a political issue. Resolving conflicts by the force of a teacher’s power, rather than by promoting reflection on the justification or fairness of an outcome, can be seen as missed opportunities for citizenship education by the argument of this thesis.

Regardless of the length of thinking time and discussion available, questions of justice can be raised in response to small incidents in a similar way to how RD already raises concerns of restitution and the repair of harm. Short conversations about how something can be resolved fairly can follow similar patterns to short conversations about how something can be made (emotionally) 'right' again in RD. While it may run against a political tide of focusing on immediate and measurable gains, as the reference to evidence-based policies earlier describes, allowing time in form periods, circle time, or citizenship education to fall to the discussion of issues that have arisen in the week allows ongoing and developmental address of such topics, and may acquire continuing momentum of its own. When pupils become engaged in questioning why school rules and decrees are fair or justified, the enthusiasm for such active citizenship seldom fades away (Vaughan & Brighouse, 2006).

In summary, social contract theories provide a useful framework for exploring ideas of co-operation over disagreement in restorative discipline, and one educative about the operation of secular institutions of justice in adult life. Explanations can be given at different levels of complexity as suits a given situation, adapted to appropriate theories, and further explored in either individual or group discussions to stimulate reflection on what rules and resolutions to a conflict might be fair.

Embedding the consideration of justice into restorative discipline appears both reasonably practical and philosophically defensible. Its most challenging requirements already have support from the existing commitments of the Ministry of Education to restorative practices and the growing body of evidence on the efficacy of restorative discipline. The opportunities to address justice in restorative discussions are numerous and found in the smallest of interactions with pupils as well as in pastoral time or time allocated for disciplinary issues. The introduction of PB4L is an eminently suitable opportunity to improve education for democratic citizenship by considering justice and fairness in restorative discipline, and one it may be wise to take considering both its potential impact and the lower time and opportunity costs of doing so in comparison with a standalone initiative aimed at achieving similar goals in the future.

While it is a hypothetical link, studies of prison populations report exceedingly poor conflict-resolution skills in terms of finding co-operative solutions to persistent disagreement, rather

than resorting to violence or forcefully pushing for one's own way (Swanson, 2009, p. 77). Any improvement of such skills, especially at such little cost relative to those of the judicial and penal systems, carries the possibility of helping students learn how to de-escalate a situation or accept compromise, rather than taking forceful selfish action of the kind that often involves violation of the law.

Chapters 1–5 have proposed the extension of restorative practices to further educate about fairness and the justification of authority, and why that necessarily contributes to better school discipline. Chapters 6–8 defend this argument against three lines of attack: from the status or rights of children, their cognitive capabilities, and the privileging of the rational over care-based forms of engagement.

## Chapter 6

### Childhood, rights, and parental preference

This chapter examines the special status ascribed to children in democratic societies such as New Zealand and the consequences this has for rational deliberation in restorative discipline. It considers whether specific conceptions of childhood, children's capabilities, or their parents' preferences undermine arguments for education about justified secular political authority, and consequently the techniques proposed in this thesis. It makes specific reference to the situation of faith schools, and from what aspects of 'moral' content a pupil can reasonably be exempted. It concludes that individual moral beliefs are not interfered with by the development of rationality through restorative discipline any more than they are by the existing compulsions of being part of a contemporary secular democratic state.

This chapter also examines the notion of rights, on which some prefer to base claims about justice rather than arguments emergent from the social contract. It addresses some issues with their formulation, and then clarifies that rights can be considered to emerge from hypothetical contractual discussion, thus enabling them to serve as a further element of support for the restorative classroom discussions proposed rather than as a competing narrative.

### Child, adult, parent, pupil, and teacher: important labels, or a distraction from considering capabilities?

#### The concept of childhood

What is significant about the state of childhood — about being, or being considered, a child<sup>58</sup>? Historically it has been assumed that this distinction between child and adult states

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<sup>58</sup> This chapter uses the term 'child' in binary opposition to 'adult' except for where specified otherwise, because this usage best highlights the difficulties in assigning rights and duties on which it proceeds to focus. Many of the 'children' under discussion will be adolescents, as the proposal is aimed at those of secondary school age and so will most often consider pre-teens from the age of 11 to young adults at the age of 18. More specific categorisation of the under-18s is more significant for the next chapter, and relative differences in capability (including of teenagers in contrast to younger children) will be addressed there.

is real and important, and this distinction is often deployed in debates around the fair treatment of children by those who are deemed to have reached a state of maturity and accorded a greater voice in public life. The central position accorded to the state of childhood in debates on fair treatment of the young is potentially harmful due to its imprecision: the legal definition of childhood is blunt, leaving little space for the flexible treatment of individuals, and the connotations of the term in the public sphere may include significant deficit conceptions justified primarily by legal status. It may be better to address individuals' qualities, or capabilities in specific areas, rather than descend unnecessarily soon to generalities.

The nature of childhood is philosophically contested and its boundaries are unclear. It is worthwhile to note how recent a development mass education is in the course of human history, and that most of these developments in the conception of the child have occurred within living memory. Ariès' (1962/1965) depiction of children as 'little adults' is a conception of childhood that goes all the way back to Aristotle, according to whom children are the immature form of a developed, final, adult organism. A competing — and now dominant — model is that of development through a number of stages, typically associated with Piaget (1977) and Rousseau (1763/1979). The 'blank slate' model of childhood, with children conceived of as open books for the world to write in, is also consigned to history in its absolute form,<sup>59</sup> in part through Chomsky's work on Universal Grammar. Human language learning provides compelling evidence that the human mind is primed for certain linguistic structures, and learns how to generate complex linguistic structures correctly from limited input, in forms to which a child has not necessarily been exposed (Chomsky, 1995). The fluidity of the conception of childhood in one generation's lifespan means that a simple and consistent legal definition of childhood as below a certain age is the most practical one to understand when the term is used in everyday speech. Such a definition should not, however, be confused with an ethical one, as the following section will highlight.

Two particular models highlight the inadequacies of a purely legal approach to childhood: firstly, the view developed primarily by Holt, Farson, and Cohen that children are effectively no different from adults in key respects (H. Cohen, 1980; Farson, 1974; Holt, 1974), and

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<sup>59</sup> A non-absolute claim, that children have some existing 'programming' and yet are also significantly influenced by their environment, is a small and fairly uncontroversial one.

secondly, that of children as potential future full citizens (either on the passage of time, development of certain capabilities, or reaching some legal designation of adulthood).

The former position challenges an essential distinction between the states of child and adult. Areas of overlap exist that render a strictly binary division undesirable. Some adults will be less deserving of certain 'adult' freedoms than some children. This position may initially seem attractive as it removes a potentially unjust distinction that is blind to individual capabilities. Difficulties arise, however, when looking beyond the compelling basic demand to the practicalities of ascribing equal rights to humans across a vast range of levels of development. Rights theories, as expanded upon below, tend to hinge on considerations of will or of interest. There are periods when a young infant is neither yet able to perceive what actions will lead to consequences in its own interest nor able to communicate complex notions of will. Special consideration of some sort is required to avoid the less capable being prey to the further developed. The equality Holt, Farson, and Cohen demand cannot be for all humans, in all respects — that is to say, certain humans require differentiated treatment in particular areas to safeguard other aspects of equality deemed more important. For example, different provisions for transport (school buses in rural areas) provide for equal access to educational facilities. Consequently, attention to specifics is desirable, rather than an abstract label of 'child' or an under-defined notion of 'equality'. This requires making numerous difficult judgements, though, such as of what quality entitles one to the licence to take responsibility for oneself to the same degree allowed to human adults. With uniform treatment considered as equality, and without such distinctions, the youngest of infants would suffer from a policy of non-interference.

This argument does not render such a demand for equality as Holt, Farson, and Cohen's untenable under some requirement to be absolute or to fail. The position can allow that the key to the appropriateness of giving or not giving rights to children arises from capacity (H. Cohen, 1980), and develop this position in accordance with will- or interest theories of rights (the discussion of which follows). Such claims still have problems, however. For example, a 'thin' definition of the capacity to choose can be defended in terms of children making choices by expressing preferences. Such a minimal definition of choice, without an awareness of consequences, can be paralleled to that possessed by animals, and raise further questions about the extent of the bearing of liberty rights; that is, why humans of

limited capability should deserve distinct status from animals (Singer, 2011). Conversely, a ‘thick’ definition of capacity to choose (based on a full awareness of consequences) is one that either no-one meets, or still requires a problematic distinction, based on the difficulty of defining what either a full or sufficient awareness of consequences entails.

One approach to childhood that mitigates these problems is the second of the two models suggested above, in which such distinctions can be drawn based on a person or animal’s capacity for potential future development. When an absolute claim of status equality is modified by such a qualification based on capacities, the above position becomes sufficiently close to a model with rights based on stages of development that they can be treated together for the sake of the proceeding argument about what significance the state of childhood holds for education about justified authority.

### **Adulthood, legal status, and the problems of labelling**

Whether understood as based on either capabilities or the potential to develop certain capabilities, establishing a legal boundary between childhood and adulthood is problematic. When this is based on the blunt measure of reaching a specific age, it is particularly so.

As a practical tool, legally ascribing adulthood to all those above a particular age can target approximate levels of development of a large proportion of people across a normally-distributed population. Considered as a judgement of capability, for many people this will be unfair, as some younger people have higher capabilities than some older people. It does, however, avoid the practical near-impossibility of conducting a test on each citizen, or each citizen who requests one, to measure their capability in an area on which their qualification for a particular right or freedom depends. Such a system could easily be unfair, corrupt, and overly resource-intensive.<sup>60</sup> The concern here is with a philosophically well-justified boundary, open as with every principle in this thesis to scrutiny by democratic deliberation, and it is partially on such a principle that legal judgments ought to be based. The ‘potential future adult’ conception of childhood can hit philosophical difficulties if defended on factors other than ability: what quality is it that is specific to adulthood that ascribes adults with extra privileges if not a higher level of capability? Legal precedent is a practical and historical

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<sup>60</sup> This has a worryingly close parallel to the genetic class system explored in the dystopian film *Gattaca* (Niccol, 1997).



boundary, not a philosophical one. That a child will come to reach the legal boundary is no philosophical argument that might ground the granting of different political statuses to those of different ages. Even if such a system may be as fair as is practically possible, it leads to unjust outcomes for some individuals, and seemingly arbitrary restrictions are a key flashpoint in many rebellions against authority in the secondary school age range. An understanding of the practical limitations of certain institutions is not likely to lessen the resentment that stems from personally suffering an injustice; understanding why a restriction is just or fair is more likely to be persuasive than 'It's the best we can do. Sorry.' Finding a fair way to evaluate qualification for adult status is challenging.

The potential for an individual to develop is something society treats as significant, not just one's current capabilities. This justifies the different treatment of children, who typically grow in cognitive capability as they age and reach 'independence'<sup>61</sup> in adulthood, and lower-capability adults who are less likely to need preparation for certain responsibilities if they will continue to need specialist care in many aspects of their lives. Potential for development is, however, not relevant to including and evaluating all voices as part of deliberative discussions: ideal public reason should settle on the best arguments, whatever the source. While a higher proportion of weak or irrational contributions may be harmful to the emergence of high-quality arguments, the educative value of participation is significant and at the level under discussion (school environments with small numbers of participants, with a specifically educative intention) this is unlikely to be a significant obstacle.

Potential for development is also significant for highlighting the inadequacy of approaches to childhood based solely either on current capabilities or on categorisation by age. If it is desirable to account for likely development, then judgements of current capability are not the only relevant factor in evaluating a young person's social duties and entitlements. Conversely, if notions of capability were unimportant enough for a legal age of majority to suffice as a completely ethical and fair boundary for adulthood, then there would be little grounds for affording extra consideration to adults who face challenges from limitations in

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<sup>61</sup> Insofar as anyone is independent. This is often an unhelpful term that plays into libertarian worldviews and fails to acknowledge the links and dependencies that remain even between individuals who describe themselves as fully independent.

their abilities. Including elements of both age and ability in the judgement of adulthood appears to be important.

The different rights and duties which adults and children may justifiably have are addressed below, but it deserves reiteration that the apparatus of public reason in deliberative democracy gives no reason why the less rational or the child should be excluded. A school environment can provide democratic practice for young people in ways a state-wide representative democracy does not. A blunt age boundary might be a practical necessity for some legal situations where there are practical limitations on the effective execution of judicial functions,<sup>62</sup> but in education for developing our understanding of society and citizenship we should consider both the legal status and capabilities of individuals: a label like ‘child’ can encourage negative pre-judgements (for example, about an individual’s capability to make rational decisions) as easily as class descriptors more widely considered to be negative such as ‘simpleton’ or ‘convict’ (the latter being a similarly misleading label for some individuals: consider the innocent or the morally-justified political prisoner<sup>63</sup>). A parallel example would be a constant gender flag in every reference to a human who is female: often irrelevant, and likely to increase the possibility of prejudice or unwarranted power dynamics influencing their treatment.<sup>64</sup>

In conclusion, to label children is imprecise, legally blunt, and can encourage weakly justified and potentially harmful connotations. The state of childhood is no obstacle to participating in deliberative discussions about fair outcomes.

### **Teachers’ authority and its limited scope**

Attending to other labels than ‘child’ provides further examples of situations where they can prove unhelpful in democratic discussions. The strength of an argument posed in deliberative discussion is more important than the ability of the person who suggests it, and so the voice of an ‘adult’ or facilitator in a democratic discussion needs specific

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<sup>62</sup> Though one could easily argue for greater resources and attention to be devoted to the judgement of liminal cases.

<sup>63</sup> ‘Ex-convict’ is even more problematic a label. Imagine an adult being constantly labelled as an ‘ex-child’, to draw attention to the fact that they used to be less independent, make poorer decisions, *and to imply that it is still a relevant feature in how they should be considered.*

<sup>64</sup> A gender-neutral singular they, (the American Dialect Society’s 2015 ‘word of the year’) avoids this effectively here.

consideration. Creating an environment in which the opinions of the adult were automatically given extra weight would be detrimental to full and equal participation in democratic discussion. If some participants in a discussion are perceived as less capable due to a label, such as 'children' in contrast to 'adults', their voices may be marginalised. Separating attention to the strength of an argument from its source is a further task that meshes well with the work done in communities of (philosophical) inquiry under the Philosophy for Children programme. Both pupils and teachers may benefit from having their attention drawn to the manipulation of social status being used to gain more favourable consideration for one's ideas.

Being the teacher, adult, or facilitator in a group does not mean one will necessarily produce the best arguments. It may generally correlate with a higher level of rational capability than an average child<sup>65</sup> — and most probably a better knowledge of structuring democratic debate, at least initially due to training and/or prior experience — but this does not translate to better understanding in every situation. All arguments should ideally be evaluated independently or with bias correction to account for their source. Teachers may have expert status in particular fields due to a deep knowledge of their subjects, but in discussions outside their specialist areas their most salient ability may be their capability for a different perspective to that of the children in their care. Often this may be a wider one that rightly considers more variables; but those variables can be exposed to group discussion, rather than being used privately to form an individual conclusion put forward with authoritative force. Because of the authority vested in the teacher in classroom situations, they must take care not to use this authority to privilege their contributions to debate unfairly at the cost of respecting the input of others. Part of establishing a deliberative community of the type this thesis discusses involves helping pupils to transfer their perception of authority from the person in the role of the teacher to the reasoning that supports their administration of just authority. When discussing democratic justification, it is counter-productive and logically inconsistent to assert personal or positional authority in support of its imposition. This would be circular: using an individual's existing authority to justify the system that ascribes authority to the individual. As deliberative democrats describe the potential problem, teacher authority violates 'authentic

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<sup>65</sup> The next chapter explores such differences in capability in detail.

deliberation'. There is a challenging balance to find for the same facilitator to play the roles of impartial observer and participant as well as the practical arm of law enforcement. This challenge, however, is one classroom teachers have long had to face.

When enforcing democratically-agreed ground rules that are currently being broken, it is preferable in democratic classrooms to do so in a way that directs attention to the rules the community desires rather than one that suggests 'the teacher is keeping order'. These prior agreements remain provisional, and subject to further democratic change in accordance with deliberative theory, but their enforcement is by reference to the law as opposed to the authority of an individual. A simple example is to ask 'What did we agree about running in the classroom?' as opposed to saying 'Don't run in the classroom'. This reference to principle will be educative for many, as shall be expanded upon in the following chapter on cognitive moral development. Discipline through collective agreement also encourages a more participatory environment, where pupils can police each other's behaviour (another phrase with undesirable negative connotations!) and consider what good behaviour involves with scope for disagreement and development, as opposed to receiving an instruction from power that may be perceived from earlier childhood experiences still to brook no argument. Much of this aspect of practitioner skill (crediting and developing the community system, as opposed to taking personal authority) is addressed by existing commitments to training for restorative discussions, regardless of the additions proposed in this thesis.

In the context of deliberative discussions, an adult should take care not to dominate by proposing most of the best suggestions, and should rather seek to draw considered ideas from children. This is standard teaching technique in schools, in preference to lecturing to an audience one assumes to be convinced of one's wisdom. In some areas a teacher will have specialist knowledge that merits particular consideration; in others they will not. An understanding of the principles of fair justification may be one such area, while overriding a democratic judgement of what a fair outcome would be is not. The former supports effective deliberative discussion, whereas the latter would impede it. For example, an effective facilitator can ensure everyone gets a turn to be heard, and that contributions are considered on their merits rather than the popularity of the speaker. An ineffective facilitator might hurry concluding on an idea he or she thinks is best before pupils have come to their own judgement.

Individuals who contribute less helpfully to deliberative discussions can still participate fully in classroom democracy as long as the system and its facilitators work to enable their ability to do that. Indeed, often it will be beneficial to privilege children's voices when they are most directly affected by a decision of which adults do not necessarily perceive the full effects. Perhaps a change in room allocation to provide for specific teaching resources means that one class has to carry excessively heavy bags over a long distance. The perspectives of all community members are valuable, and consequently so is wide participation in community discussions. One can recognise that some participants may not comprehend certain issues fully, or make logical errors — indeed, a thoughtful class can come to consider the fallibility of its own judgements — but the process of democratic discussion can promote the logical analysis and comparison of proposed solutions and make progress towards whatever the community judges a better answer to be, no matter what the starting point.

In summary, the label of 'adult' or 'teacher' may be unhelpful in some situations, even if vital in other contexts. A teacher's particular strength in democratic debate might often be in upholding the system, and agreed-upon consequences — as a consistent presence of a developed adult awareness of justice, and with experience of maintaining consistent boundaries in the face of social pressure.<sup>66</sup> The teacher should not be presumed to be the provider of optimal solutions to problems under democratic discussion.

Individual children's ability to suggest successful policies is not universally lower than that of adults, even though in many situations they will produce less rational solutions. Avoiding lazy reference to labels when it is unnecessary helps lessen the problems of social power magnifying some voices inappropriately.

### **Pupils, parents, and the inability to opt out of particular compulsions**

Two further regularly-distinguished categories merit individual mention: those of pupil and of parent. These will be used to highlight the role of democratic discussion in developing the understanding of why particular claims of authority are or are not justified. Mirroring the role of teachers, who have certain powers justified by their position, certain areas of

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<sup>66</sup> Discussion of the relative levels of development of teachers and children follows in the next chapter, and addresses the potential issue of adults who may not be well-placed to facilitate such environments.

expertise, and particular duties, pupils similarly have domain-bounded duties and entitlements. Being in the pupil's role for a particular learning experience does not mean that a student has lesser knowledge or capability in every respect. The pupil's role should not be conflated with the state of being a child: his or her role is to learn, often about a specific domain, and being a pupil should not necessarily entail any assumptions of lacking knowledge or wisdom more broadly that may lazily be associated with children. Again, the deliberative principles that support the models discussed in this thesis provide a means for learning about a community member's rights or duties: agreements on role — like all prior agreements or resolutions in deliberative democracy — are provisional, and their justification can be subject to discussion. When such roles run against the imposed force of a greater authority such as the nation-state (e.g. as in the case of compulsion to attend school), such authority can be exposed, challenged, and discussed, but for present practicality has to be accepted.

For learning about the democratic process itself, restorative discussions enable students to be involved in decision making and thus learn by participation — practical civics in action, as discussed in chapter four. Quiet enforcement of the rules can reflect legal and political processes at a state level, enabling the experience of being subject to the rules of school to serve as practical education about democratic citizenship. Discussion of the justification of these restrictions can provide an excellent platform for developing critical literacy<sup>67</sup> as students approach adulthood and the increased opportunity to engage with the governance of wider democratic society.

The role of parent is another that carries authority which children may feel they cannot challenge. A parent's ability to compel a child to follow certain rules may reach beyond the limits of its justification given that the family unit is not beholden to the judgments of public reason. Family law and social care are often only of recourse in the most severe cases of domestic disharmony and abuse. There is clearly widespread social desire to respect and preserve the special relationship and closeness many parents have with their children, and for many it forms a primary component of their human happiness, but there are limits to

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<sup>67</sup> Critical literacy here is the ability to perceive and address oppression covertly imposed upon citizens by institutions such as governments, and consequently to become more empowered. This social justice understanding of critical literacy is most associated with Freire (1967/2000). It is an optional direction in which discussions of institutional power can be taken, rather than a required element of the argument of this thesis.

the extent of a parent's justifiable authority and out of the public eye this may well be exceeded. The details of a parent's duty of care lie mostly beyond the scope of this chapter, but the section below on faith schools examines whose interests should take precedence when child, parent, and state come into conflict. The extent of the authority parents should have over their children may be different from what they do have in practice, but if so then this is an imperfect feature of our current society that is less easy to address with school policy than relationships conducted in a more public arena. A child's freedom to be home-schooled, and opt out of attending formal education, may not be one that is realistically available to them while they are dependent on their parents for care and the meeting of their basic needs. These problems do not invalidate any of the solutions proposed in this thesis as they are similarly built on a society where there is no practical option for adults to opt out of membership of the nation-state that claims the land on which they live. Children in New Zealand will be subject to New Zealand family law, and to the New Zealand justice system in adult life if they remain in the country, whether they like it or not. Learning to cope with, interact with, and thrive under such conditions that at first may seem immutable is part of the personal benefit of citizenship education.

Should children have some say over aspects of their status such as the ability to opt out of the protections and limits under discussion? There is merit<sup>68</sup> to the position that those who request an adult right should broadly be granted it, and this is addressed legally by the cases of Gregory K's involvement in his change of legal parenthood (Russ, 1993) and the UK laws of Gillick competence (*Gillick v West Norfolk and Wisbech Area Health Authority*, 1985). These were precedent-setting cases concerning children's ability to have a say in the conditions of their own future. Gregory K legally divorced his parents at the age of 12 while under the care of his foster family, and the Gillick decision confirmed the legal right of children under the age of 16 to have medical treatment without the knowledge or consent of their parents 'if and when the child achieves sufficient understanding and intelligence to understand fully what is proposed' (*Gillick v West Norfolk and Wisbech Area Health*

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<sup>68</sup> This is both on the grounds of a right to self-determination, and on consideration of why a child otherwise lacks a certain right. If a child is judged to have considered, and have a meaningful grasp of, the consequences of a certain right, then arguments against a child's capacity to act in accordance with that right are undermined. The question of what a 'meaningful grasp' entails faces problems similar to those of having a full understanding of the outcomes of certain choices, addressed both earlier in this chapter and in the following section on different theories of rights.

*Authority*, 1985). There is some philosophical difficulty in clarifying a point at which authority can be given to a child's opinion that affects their future self when their rationality is yet not fully developed,<sup>69</sup> but the structure of much non-restorative classroom governance is so far removed from the acknowledgement of children's preferences and the rational merit of their views that any introduction of democratic principles is a step in the direction of justice. 'Traditional' authoritarian discipline demonstrates very little respect for children's input in disciplinary situations, and may serve the interests of fairness poorly through not allowing relevant facts to emerge. A simple example would be punishing a pupil for being in an area restricted to staff without giving them the opportunity to explain any special dispensation to be there which they might have. The empirical data on restorative practices highlight many benefits that can accrue from the inclusion of children's voices in resolving situations of conflict, yet some democratically-justified decisions will still go against the preferences of certain individuals and groups. High levels of autonomy for the mentally underdeveloped are likely to continue to be one of these situations unless the merits of a small degree of paternalism are substantially refuted.

In summary, some of the issues that may arise in democratic discussions of discipline in secondary schools will be built upon positions about the status and capabilities of children, and are not fully addressed when explanations terminate without exploration at concepts such as 'the pupil's duty' or the legal requirements of schooling for children. Labels can be problematically imprecise, as is universally the case with generalisations, and those discussed in this chapter especially so because of the parcel of unexamined values many will have about those who bear them and the relationships they should have with other groups. Such distinctions can be legally rather than philosophically grounded, and based on easily-measurable qualities such as age rather than qualities which might be more significant, such as mental capabilities. The democratic debate proposed in this thesis can expose and evaluate these problems — educative in itself about the conditions under which schoolchildren work — and at least propose and consider suggestions for how the most problematic of our current systems might be made more just.

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<sup>69</sup> More detail on meaningful choices follows in the section on will theories of rights, below.



After considering the variety of conditions and situations about which democratic discussions can educate, the concerns of behaviour management systems not openly grounded in such attention to fair justification may seem all the more distant and custodial, attending to punitive discipline rather than being socially educative. The issues above support the restorative discussion of justice in school discipline as an educative project. Democratic discussion can help children understand and engage with the reasoning behind social limitations, exploring and questioning the sources of justified authority, as a component of good school discipline and in better preparation for engagement with adult democratic life.

## **Children's rights**

This thesis has until this chapter made little reference to theories of human rights. This is no accident, as the justification for rights theories is often drawn from arguments that can be considered subordinate to a deliberative democratic process rather than necessarily prior. This section addresses some problems with the formulation of rights theories, and then clarifies how a conception of rights as emergent from contractual discussion can enable them to serve as further support for the argument of this thesis, rather than as a competing narrative. Rights theories have been criticised by communitarians such as Sandel (1998) for their close links to liberal positions that consider independent individuals as the constituents of societies. These assumptions are unnecessary either to make or to deny in adopting Gutmann and Thompson's deliberative democracy as presented in this thesis. Discussions of justice and fairness are often built on discussion of rights as basic claims and starting points (e.g. Rawls and those working in his tradition make such claims) when their justification can actually be found through reasonable democratic consensus. This section addresses some problems with taking rights as a starting point for classroom discussions of justice, before clarifying how the apparatus of deliberative democracy enables their discussion as something emergent from other principles of fairness, rather than needing to be postulated as axiomatic.

Talk of rights can be unhelpful in classroom discussions of fairness and justice. An argument in which an individual stands on their 'right' to something, aware that this might be an

irrefutable claim to the outcome they desire, can be used to close off discussion, rather than exploring whether or why this might be the case. It is easy to visualise teenagers in a classroom repeatedly insisting on entitlements rather than consider any corresponding duties that possessing such rights might entail. Such an approach to rights is very one-dimensional: it ignores how a framework of rights can support the interests of a community, rather than solely concern the self-interested entitlements of a right-holder. Such an approach can support a consumerist mentality towards education, where the student is considered to be purchasing a service and can insist upon certain circumstances according with their preference as opposed to with other principles such as those of distributive justice. This thesis proposes educating for democratic citizenship, which (in accordance with Gutmann and Thompson's principles above) involves education to enable equal participation in democratic adult life. A student's choice does not take precedence over such principles. This is a situation that will be reflected in the consideration of parental choice over faith schools, as discussed below.

The principles behind some such rights claims will be grounded in legal requirements, but others will not be, and all such claims should be within the bounds of reasonable community debate. However, a room full of self-interested individuals demanding unexamined rights for themselves is a less fertile environment for the discussion of what entitlements might be impartially justified than a restorative environment, where community well-being is more of a focus. The content of rights can appear to be beyond the scope of debate, when there is no reason why they should be accepted without discussion in a system founded on deliberative democracy to help prepare children to enter adult democratic discourse. Unassailable rights established prior to democratic debate are not helpful when trying to establish reasonable and mutually acceptable foundations, as both principles and the process of democratic debate itself are provisional under Gutmann and Thompson's formulation.

Rights talk can confuse the restorative conversations proposed in this thesis. Discussion seeks to enable children to explore and understand the sources of values under disagreement, rather than to accept some positions unilaterally. Such rights claims may both be hard to distinguish from value claims (which can be moral, rather than components of justice), and be established in practice by legal precedent and practical compromise

rather than by clear philosophical commitment. If citizens are being prepared to enter the democratic process, and to be able to modify the apparatus of the state, presenting a legal and mutable aspect of the state as conceptually axiomatic undermines the mission of exposing the foundations of authority and inviting children to join with the shaping of it. Rather than confusing discussions with notions of rights, which may be understood to imply further unnecessary philosophical commitments, it is clearer to focus on the political authority that comes from public reason.

An examination of how rights are ascribed to children highlights their practical and legal basis rather than primary reference to philosophical issues. The example of the age of majority is again illustrative, where being considered to have reached adulthood and to have acquired the associated bundle of rights is judged by a uniform measure of age rather than a judgement of capabilities, sacrificing accuracy for individuals for ease of implementation over a large population. Legal and practical issues follow democratic resolution in Gutmann and Thompson's model, and it would be inconsistent with this model to present them as superordinate principles beyond the scope of democratic debate. Such a division between adulthood and childhood may be a sensible solution in practice, and even a helpful starting point for discussion, but such a division may be mistakenly understood to rest on philosophical rather than legal justifications. Similar attention to practicality over philosophy does not diminish the value of agreements such as the UN Declaration of- and Convention on the Rights of the Child (UNDRC & UNCRC) as legal guarantees in support of practical action. There is great consequential value to the agreements reached to uphold them. These documents are, however, political outcomes: they resulted from a process of reasoned deliberation, and were agreed to be valuable, rather than being considered as of prior value and exempt from the process of deliberation. Care is necessary not to confuse grounds for practical and political action with philosophical grounds. In a classroom debate, reference to existing conceptions of rights may cloud the issues if raised unnecessarily.

Rights theories for children are also philosophically problematic, as evaluated by Archard (2003). The following section will consider these problems, and further defend why assertions of basic rights beyond the consideration of democratic debate are unhelpful for the discussions proposed in this thesis. Using the language of rights not only risks potential confusion about the source of basic political values, but also requires making unnecessary

and contestable philosophical claims, as described below. In a similar manner to the pragmatic acceptance of the current government in chapter four, and the avoidance of stipulating specific moral truths throughout this thesis, there is no need to adopt a position here that might alienate some who would otherwise accept the argument of this project.

Theories of the function of rights are split primarily into two families: will theories, in which a right-holder has a choice to enforce the correlative duty on another to provide that right, and interest theories, in which the interest of the right-holder in having the subject of the right is sufficiently great that it creates a duty upon others to fulfil it. When applied to children, there are serious difficulties with both of these approaches.

### **Will theories of rights**

The problems of applying a will theory of rights to children are well-documented.<sup>70</sup> While there are different moves that can be made to attempt to reconcile apparently incompatible central claims, many will theorists assert that only those capable of exercising choices can be rights-holders, and that children are incapable of exercising what meets their criteria for genuine choice. Unless one of these claims is modified, children cannot be rights-holders. While the will approach has potential solutions, such as the decisions of trustees on behalf of children who are democratically active, it is deeply problematic for those wanting to ascribe rights to children. It is practically challenging to apply will theory rights to beings without a clear way of communicating their will accurately, which would include intelligent non-human species, and, below a certain age, young children. There are also challenging liminal issues here, for example in delineating when an expression of preference become a meaningful choice, or how well someone has to understand or be able to predict the necessarily indeterminate consequences of an intended action for it to be considered as a choice. The inclusion of will theories of rights in grounding classroom conflict resolution takes on significant philosophical problems unnecessarily.

### **Interest theories of rights**

While more favoured than will theories in addressing issues of children's rights, interest theories of rights also face problems. The child's best interests are key to the formulation of

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<sup>70</sup> Archard (2003) provides a comprehensive summary.

the UNCRC (UN General Assembly, 1989), but it is difficult to be precise about what exactly 'best interests' are, and what claims they make on others. Reich states simply that the child's best interest cannot be singularly defined in the value pluralism of a liberal democracy (Siegel, 2009, p. 473). In such an environment there is disagreement both over what constitutes a good outcome, and whose projection of the likely outcome of a decision should take priority.

An initial problem is whether 'best interest' is constituted prior to moral value, and subject only to a political justice framework. That is, whether best interest is determined by some conception of the good, or in accordance with conceptions of fairness and the right that attempt to account for competing notions of the good. If interest is judged from a moral basis chosen by another, this may be a significant denial of children's freedom to choose their own values due to some quality judged essential to their status as a child. If one factors in the child's preferences, however, then there is significant overlap between interest- and will conceptions of rights, and a question of how much weight to place upon these preferences and whether or not they constitute considered choices. A judgement of the best compromise between reasonable perspectives may privilege rationality in a similar way to public reason, but in doing so attends less to the child's perspective, and is somewhat paternal. This thesis does not consider personal morality to be subject to public reason in the same manner as interpersonal justice, and establishing rights from a moral perspective is not necessarily compatible with a commitment to moral pluralism. When best interests are morally determined, there remains the question of not only how they might be evaluated, but also how they should be constrained by justice and the interests of others. This again touches on how such legal rights are primarily a practical solution rather than a philosophical claim concerning ethics that we might attempt to explain to our students. This approach does not necessarily address pertinent questions of justice, as prioritising one conception of the good does not allow for the evaluation of that conception in comparison to other competing conceptions of the good.

Making a hypothetical choice in service of a child's best interests is similarly problematic. Three different approaches to this choice all face conceptual problems:

- Attempting to choose as the adult a child would become would choose neglects the impact of this choice in the person they would become: Archard's illustration is of the child who practises the violin and becomes a happy concert violinist, and of the same child who practises football and becomes a happy professional footballer. Each end-state adult would reasonably recommend a different course of action.
- Attempting to choose as any adult would choose is not straightforward, as while in some situations the course of action is easily agreed, such as in classic considerations of paternalism involving keeping a child's hand out of a fire, in others there will be significant difference of opinion. This thesis recognises a reasonable plurality of moral positions, on which adults would disagree.<sup>71</sup>
- Finally, attempting to choose as an adult analogue of a specific child would choose is conceptually challenging. It is hard to isolate what aspects of a child can be altered without neglecting to respect some important part of their personality, and also arguable as to whether or not this produces something coherent: for example, seeking an adult decision on whether or not to visit a non-existent Santa Claus in Lapland in whom your child counterpart believes. This appears to be another case in which reference to imprecise labels such as 'adult' and 'child' is unhelpful.

Reference to the best solution found in deliberative discussion (by public reason) might seem helpful in addressing doubt over a child's best interests, but this faces a problem of its own in considering to what degree one ought to respect the voice of the person primarily concerned, even if making an irrational contribution and reaching the 'wrong' conclusion. The interest approach also faces complications from Parfit's (1984) argument against the identity of our present and future selves, as a child may often prefer a course of action that benefits them now but will cost their future self. It would require a refined justice framework to reach agreement on legislating in such conflicts of interest between a person and their future selves!

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<sup>71</sup> This can be mitigated to some extent by the use of justice reasoning to find the best possible compromises between different positions, as proposed for conflict resolution in this thesis, but this still does not meet the criteria of a choice following a moral conception of best interest on which any adult would agree.

Ascribing weight to a child's conception of their best interests involves consideration of their preferences, even when they are highly irrational. This again suggests the specific consideration of individuals' capabilities rather than generalisation about the preferences of all those labelled as 'children'. The potential for development remains important here, as the reaching of 'adulthood' is used to distinguish a point at which an individual's conception of their best interests is given greater priority over competing concerns and other people's values. This is all compatible with a distinction between children and adults being made on relevant qualities for a particular decision, such as their ability to foresee consequences and potential future development, rather than a lexically- or legally-bounded definition. The problems inherent in categorising children are magnified when attempting to consider their rights.

The above problems all illustrate the difficulty in adopting a framework of rights prior to democratic discussion, both conceptually in relation to children and practically in their impact on classroom discussions of fairness. Furthermore, if rights are grounded outside of the scope of democratic deliberation and justice reasoning, then they are based on some additional unspecified axiomatic values. The establishment of rights from justice is an alternative, as this thesis argues that justice can be grounded in democratic deliberation, and rights can be emergent from justice principles, which are derived from contract theory. Rights so grounded are then accessible and modifiable in ongoing democratic discussion. Contractual grounds for understanding rights fit the proposal of this thesis and eliminate many of these areas of difficulty.

If the justification of rights is itself understood to be contractual — that is, if rights are concepts on which reasonable agreement can hypothetically be found —<sup>72</sup> then they are subject to public reason and can be considered in deliberative debate. What rights children, pupils, and teachers have can therefore be considered in the classroom in terms of co-operation and social contract, rather than being the object of absolute demands. They can emerge alongside, or as the result of, understandings of justice. This is a type of discussion that can be productively addressed with restorative conversations, and is less conducive to

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<sup>72</sup> By any of the theoretical formulations discussed: for example, a Scanlonian approach would involve considering agreements to which no-one could reasonably object, while a contractarian approach would seek agreements that all parties agreed were in their own interests.

the consideration of rights encouraging absolute claims of entitlements as discussed above. Contractual discussion of rights enables a clearer focus on fairness and co-operation when individuals' interests or preferences collide. Such a justification permits the exploration of alternative conceptions of rights while still drawing on the same consistent principles of democracy and the social contract as used throughout this thesis. Adopting an understanding of rights as principles established in Rawls' original position, or as principles to which no-one could reasonably object (Scanlon, 1998), eliminates the need to assert rights as being external to the structures adopted in this thesis, and also avoids the difficulties of adopting an absolute approach to one will- or interest theory of rights. Rights can instead be considered to emerge from the exercise of deliberative democracy and public reason, and attention to individual local problems can consider capabilities and potential with more nuance than the stipulations of a separately-grounded universal theory. This allows for more practical and engaging debate as it can be directly relevant to real disciplinary problems that occur in schools. Avoiding the use of additional principles to ground theories of rights in addition to deliberative structures enables their establishment through debate, without the requirement of asserting contentious moral statements or other philosophical positions as if they were simply true. Such problems can be faced within the system of deliberative discussion, rather than being used to ground it. A contractual basis for justice can serve as an acceptable foundation for the discussion of rights in a morally plural school.

### **Special interest and faith schools**

Discussion of rights suggests returning to a topic briefly addressed in chapter four: the right of parents to have a say in the moral content of their child's education. This is of key relevance to the justification of faith schools, as this section shall proceed to explain. It might at first appear to be guaranteed by the third element of Article 26 of the Universal Declaration of Human Rights (UN General Assembly, 1948), that 'Parents have a prior right to choose the kind of education that shall be given to their children'. However, Gutmann and Thompson (1996) argue that this right interferes with citizenship education on the grounds of the previous element of Article 26; that



Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups.  
(UN General Assembly, 1948)

The argument in chapter four of this thesis defended a child's right to development that enables full participation in democratic society as an adult. Choosing a 'kind of education' that denies this right in accordance with the third element of Article 26 would be in contradiction with the above quotation from the same Article. To quote Gutmann, 'democracies do compromise an important principle of educating all children within their borders to the status of equal citizens when they decide to exempt some insular groups from this democratically justifiable requirement' (Siegel, 2009, p. 424). Reference to a 'kind' of education is vague, but is clearly not intended to allow for contradiction with that which comes but a paragraph before. A parent does not have the freedom to stipulate that the kind of education they desire for their child is one that deliberately limits their personal development.<sup>73</sup>

The domain in which such conflicts commonly occur is that of communities which desire a specific moral approach to their children's education. These are often schools that adhere to the tenets of a particular religious faith. Such schools differ significantly in the extent of their stipulations, so in evaluating their acceptability it is important to look at both what individual schools claim to do and what it may be improper for them to do.

Many parents want to instil their children with 'good moral values', as they understand them. The structure of our democratic state allows for plural conceptions of the good. It does not, however, allow these conceptions to take precedence over the structures of justice, which function partially to rule in situations of moral disagreement. Throughout this thesis issues of justice and of morality have been specifically distinguished. Good education about the structures of justice, as the practices proposed in this thesis aim to promote, would make it less common to confuse issues of justice for issues of morality, over which parents and schools might justifiably claim to have some authority. Such confusion may well lie underneath the most strident objections to the enforcement of education about justified

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<sup>73</sup> Reich tackles this problem clearly by distinguishing parents' rights to direct children's upbringing from their education. (Siegel, 2009, p. 471)

authority; confusion which dissenting groups would likely describe as rejecting the state's authority to enforce its values over their religious beliefs. The response to this claim is to reiterate that this is a proposal for a state, not for groups who may wish to secede from it. Children in New Zealand will be subject perforce to the justice framework of the New Zealand government. This is not something from which a sub-community can choose to opt out. Challenging the morality of this is a worthwhile discussion, but beyond the scope of an argument about education policy for those currently living in the state. To live in Aotearoa and use its infrastructure necessitates some method of dealing with competing claims between parties who would use it differently. Thus, principles of law and justice are important for children growing up in this country, and their full development is stymied if they are not educated about such. Because of our plural conceptions of the good, there is no legislation to enforce education about certain aspects of the good. However, education about justice as construed in this thesis, and defended by Gutmann and Thompson as something necessary for development into a capable adult citizen, provides a framework for deciding between competing moral claims. Parents may raise their children to believe a certain set of moral tenets, but education for democratic citizenship can provide each child with the apparatus to evaluate them independently by rational criteria. Denying young people the tools to evaluate a moral position cannot be defended as part of a moral position, given the superordinate position of justice over morality defended in this thesis. Does this, therefore, suggest the existence of faith schools is likely to be harmful? Some fundamentalist faith schools no doubt fail to meet these requirements for citizenship education, and should be required to attend to education about secular principles in addition to those of their faith, but many do not. A community can profess a specific set of values while still educating its members about the means to evaluate them.

A further issue concerning faith schools is that membership of and departure from such communities is not free. Children do not always get the choice about whether or not to share in the practices of their parents' beliefs, regardless of their own personal opinions. In environments where certain values are promoted strongly it may in practice prove unpopular to dwell extensively on secular principles, which may be seen (correctly) as promoting doubt about the values for which the community stands. People are not universally comfortable with the possibility of their religious convictions being mistaken. It

requires a certain level of confidence in the justification of one's views and the potential counterarguments to be happy to stand up and claim that one might be wrong. Negating the practical impact of these problems, however, is the lack of an alternative: no child can be given a value-free environment from which to take an impartial overview of matters of morality. Teaching the ability to adopt the hypothetical position of an impartial spectator may be the best one can practically do. Enforced membership of the nation-state is no less coercive than enforced inhabitancy of certain moral environments, even if the claims for its justification may be less contentious.

These problems therefore do not undermine the grounds for school communities with particular moral commitments to operate. Cairns (2009) defends their existence in a plural society as furthering the exploration of aspects of particular conceptions of the good, while acknowledging Rawls' argument that the rules by which political decisions are taken should be established in isolation from the world views of citizens. A faith school which performs good citizenship education is no more restrictive of children's moral freedoms than other compulsions which may be put upon them with less justification by their parents. Optimal preparation for participation in democratic deliberation should require such moral systems to be rationally plausible, as teaching a child a decision-making framework containing contradictions disempowers them from contributing as helpfully as they might to public reason. It follows that schools teaching demonstrably contradictory moral positions as if they were not so, just as schools teaching  $2+2=5$ , are not preparing children as well as possible for equal participation in adult society. In practical terms, this provides grounds for mainstream faith schools but prohibits extreme cult situations in which 'alternative facts' are asserted to be true.

Legal defences of the justification of faith schools are not necessarily founded on the grounds presented above, and may not safeguard the rights to equal development for democratic participation defended here. The landmark legal case of *Wisconsin vs. Yoder* (1972) is seen to establish the right for home schooling in the USA, on the grounds of religious freedom. The Supreme Court judgment featured a partial dissenting opinion in line with the specific argument followed here: that a child's full development is not being respected if they are not exposed to certain opportunities or forms of education outside their family's belief system or way of life. Part of the justification in support of the ruling

was that the Amish community under consideration was considered generally to be 'pro-social' — that the values the community espoused were ones which the court found praiseworthy. This implies that the judgment was not based on principles independent of the type of moral education the community was seen to provide. Such a legal justification for faith schools does not guarantee an education which respects secular principles of justice and allows for a child's full development for democratic citizenship. The case to promote certain types of education as in a child's interest is strong and supported by the Universal Declaration of Human Rights, but the practical reach of this argument into specific communities may be less than is ideal. One can only hope that the number of directly harmful communities that are justified under this law is small; there is no scope to insist that education must be rational and non-contradictory under the provisions of the First Amendment to the US Constitution. Freedom of religion receives stronger legal protection than the development of the ability to consider principles that are not acceptable to those within a specific belief community.

Furthermore, simple reference to the outcome of cases such as *Wisconsin vs. Yoder* (1972) obscures the educative potential of considering the justification of such rulings. The US Constitution provides a foundation for the country's legal system, and is often quoted there in defence of one's right to take certain actions. This is similar to the discussion above of how 'rights talk' which involves only the assertion of entitlements can be used to close down the exploration of an issue of justice. These are legal conceptions of rights, rather than philosophical ones. Restorative discussions are well-placed to unpack this difference, and also the difference between moral values and principles of justice in situations where the two may collide. They can leave young citizens better equipped by their education both to reflect on their own moral convictions and to understand fair restrictions upon their interaction with others of different views and the state.

Developing a simple understanding that others have different points of view, and that they may be worth consideration even when in violation of one's own moral framework, is something at which moral education does not always succeed. If faith schools educate about both their community's values and the requirements of justice then they can serve both their parents' values and the children's rights to full development. If a school does not allow all moral values to be open to debate, it is not particularly different from many other

contemporary schools — but frameworks of restorative discussion and public reason tend to lead to critical discussions of values, making it harder for unjustified principles to pass unnoticed. If a school's values include the rejection of justice, then that is in contradiction of Article 26 of the Universal Declaration of Human Rights. By the understanding of justified authority adopted in this thesis, faith schools should not be permitted to teach that concerns of justice are morally wrong: it would be a category error to claim that justice can be evaluated by morality, when that relationship is necessarily the other way around.

In conclusion, the issues raised in this chapter do not appear to constitute significant problems for the proposed extension to restorative discipline practices. While children's capabilities are limited in some areas, often including their logical reasoning in comparison with adults, the exercise of public reason enables the best arguments to be privileged rather than the speakers perceived to be the most rational. A careful facilitator should use their abilities to support well-structured discussion, rather than asserting their belief to have better opinions or greater authority in any content under discussion.

Such capabilities ought to be more of a focus of our attention to individuals than the potentially unhelpful labels of adult and child, which may not scale with relevant abilities — or even pupil and teacher, which may only apply in certain domains of exploration with all participants being co-learners in others. The label and role of parent is more significant, as there is a collective desire to privilege the special relationship between parents and their children. The domains in which parents have justified influence over their children are however specific and limited, both philosophically and by the law. A duty of care is not relevant to the outcomes obtained by public reason in the democratic discussion space, and might be unhelpful to focus on due to commonly-held notions that older people often know better, or even that they should be deferred to on principle. Such a duty of care also does not allow one's own moral concerns to justify impeding a child's development for full and equal participation in adult democratic society.

This has specific relevance for the consideration of faith schools, to which Gutmann and Thompson's argument applies that it is a violation of principles of equality for a parent (or school) to restrict a child's learning about democratic citizenship in order to suit their own moral beliefs. The opportunity to be educated about the justification of authority is

something that should be available to everyone to enable them to function more fully as an adult in secular democratic society in accordance with Gutmann and Thompson's principles. Faith schools are acceptable in principle if the reasoning behind their commitments is sound; not least because it is impossible to offer a value-free environment as an alternative. Care should however be taken to ensure that such environments enable learning about secular democracy (for the aforementioned development of equal democratic capability) and do not conflate issues of justice and morality to fit a narrative that they are necessarily subordinate to morality.

On the discussion of rights, the usage of such language might at first appear unhelpful when appealing to co-operation in conflict resolution, but as rights can be justified from contractual principles they can be used to support restorative discussions of justice rather than encouraging an unhelpful focus on entitlements. A contractual approach to rights also largely avoids the problems of ascribing either will- or interest theories of rights to children, and can be explored without the confusion of some principles needing to be stipulated as outside the scope of deliberative democratic debate.

In conclusion, none of the issues in this chapter constitute a substantial obstacle to encouraging the rational consideration of just outcomes in restorative discussions in schools given the existing compulsion of membership of a secular democratic state — and a contractual formulation of rights, including the right to full development as an equal democratic citizen, can furthermore specifically support it.

## **Chapter 7**

### **Kohlberg and cognitive moral development**

This chapter addresses the potential criticism of the methods proposed in this thesis that children (of secondary school age) lack the cognitive capability to understand the rational discussions proposed. It does so by reference to the work of Lawrence Kohlberg on cognitive moral development. Since the 1960s, Kohlberg's model has been highly influential in describing moral development as progressive competence at a range of cognitive approaches to evaluating moral problems, each reached successively as part of an individual's psychological development. While his theories are no longer a widespread way of defining moral development, the thinking he describes, categorises, and measures closely reflects the thinking about the justification of authority for which this thesis argues. Kohlberg's theories, and the data he collected in support of them, concern a sufficiently analogous domain as to defend that adolescents are capable of the type of thinking proposed for restorative conversations.

Kohlberg's work will be helpful for this thesis in four particular areas, each covered in a section of this chapter. The first section will describe Kohlberg's system, and describe why his moral cognition is similar to the rational thought about fairness for which this thesis argues. While this thesis does not claim that this type of thinking is necessarily moral, his theories and data on the types of thinking which children can do support the ability of secondary-aged children to engage with rational reflection on fairness in restorative discussions.

The second section describes how a basic understanding of Kohlberg's levels can help educators decide how to present the reasoning about fairness they engage in with children. Kohlberg and his colleagues found that certain types of approaches to moral reasoning were not likely to be persuasive to children before certain ages, or before certain other types of approach were apparent in their reasoning. Assessing a child's level of progress through Kohlberg's stages can help teachers know how to present disciplinary interventions, and how to initiate discussions which may be developmentally useful dependent on what kind of language and reasoning particular children demonstrate. These considerations can fit into

the restorative models described throughout this thesis, without their grounding in social contract theory restricting their deployment to those who have reached Kohlberg's stage 5 or above.

The third section describes how Kohlberg's efforts to promote moral development in 'Just Communities' provide a number of lessons for the successful implementation of practices designed to foster consideration of fairness in the secondary school. Just Communities are compared to restorative communities and the data on their outcomes are examined. The section also explores why the significant criticisms and obstacles he faced are far lesser concerns for developing students' reasoning about justice through restorative discussions than they were for the communities he created.

The concluding section examines Kohlberg's data to see if they support the practicality of the restorative discussions of fairness proposed in this thesis. It addresses the capabilities of both teenagers and teachers of the type of reasoning required, and whether such conversations are likely to be accessible and meaningful. It suggests that the supportive environment of restorative practice lessens the difficulties Kohlberg encountered with his training, and may enable similar methods to have more lasting effects in the context of PB4L.

## **The stage theory of moral development**

Kohlberg's standard model describes the development of individuals' thinking about morality. It consists of six stages, grouped into three levels comprising of two stages each. Each stage, by his theory, is necessarily reached before an individual is capable of the type of thinking demonstrated in the following stage. As a subject progresses through the stages, they can be seen as growing beyond a self-centred outlook towards viewing themselves as part of a society along with others also deserving of consideration, and finally stepping outside of the individual's perspective to make moral<sup>74</sup> judgements in terms of abstract impersonal principles.

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<sup>74</sup> These would be judgements of justice or fairness in the terminology adopted elsewhere in this thesis, as is expanded upon shortly.



The developmental aspects of Kohlberg's work have their roots in Piagetian notions of developmental stages. Kohlberg casts ways of approaching moral dilemmas as typical of different stages, arranged in a hierarchy through which individuals progress over the course of their lives (presented below). Each stage is a precursor to the next, with only a minority of individuals reaching the stages at the upper end of Kohlberg's scale.

The first two stages are described as the Pre-conventional level. They are typified by a focus on direct consequences for the self and obedience to the power of those proclaiming rules. Judgement is focused on needs and consequences as opposed to persons or standards.

Stage 1 is a focus on punishment and obedience typical to young children, when goodness and badness are judged in terms of the (often physical) consequences to oneself.

Stage 2 is typified by self-centred reciprocity, well-characterised by the phrase 'You scratch my back, and I'll scratch yours'. Moral thinking remains broadly egoistic, with deals made for instrumental value and characterised by a pragmatic reciprocity. It features only occasional attention to the needs of others.

The Conventional level, stages 3 and 4, is characterised by valuing the maintenance of group expectations beyond obvious immediate personal consequences. Conformity and supporting the social order are key to thought at this level.

Stage 3 is often described as the 'good-boy/nice-girl' orientation, where good interpersonal relations are valued. It is typified by approval-seeking behaviour, and beginning to judge the morality of acts by one's intention. The interpersonal relationships here are viewed from a longer-term perspective, with more value ascribed to the ongoing maintenance of a deeper relationship than in Pre-conventional thinking. Judgements of reciprocity are no longer based on immediate pragmatic value, but on the ideal moral value of what one *should* do in return. This move towards third-person thinking and metacognition is rarely seen before the ages of 11 or 12.

Stage 4 is the 'law and order' orientation. Concepts of duty, and respect for law, authority, and fixed rules feature strongly here. Maintenance of the existing social order is valued, as well as the maintenance of one's conscience. This is the highest level Kohlberg found the majority of adults to reach.

Post-conventional reasoning under this model is based on principles and values. Grounds for authority are judged separately both from the power of people or social structures that possess it and from one's own personal position.

Stage 5 is a social contract orientation, directly congruent to the conversations around social contract theory explored in this thesis. A skeletal presentation of a reciprocal social contract would sit here, yet the usage of contractual reasoning can also be a part of reasoning in concordance with universal ethical principles, as in stage 6. Still more importantly, simpler presentations of fairness can reach down through stages 2–4 and will be more appropriate far more of the time in school classroom discussions, but can still ultimately be founded on contractual understandings of fairness and justice, as expanded upon below. Stage 5 is legalistic in approach, as procedural rules for finding consensus on mutual benefit are valued, and impersonal fairness can often be framed in a utilitarian light. Unlike in stage 4, laws are judged to be imperfect if they fail to meet principled moral standards. Outside of legal requirements, free agreement forms the basis of contracts which beget duties and rights.

Stage 6 is the stage of the logical, abstract, consistent, universal ethical principle. This is not a specific moral decree, such as a Biblical commandment, but a principle such as the Golden Rule, or Kant's Categorical Imperative. For Kohlberg, these principles should respect an individual's exercise of conscience in moral dilemmas that are unclear.

It would not be accurate to read such a summary and then conclude that students can simply be instructed to apply reasoning typical of a stage above that at which they are currently operating, as if such forms of reasoning are methods from which one can select upon becoming aware of them. These modes of evaluation are the external indicators of internal changes in cognition. Students cannot simply be made to value something differently by directly being told to do so, or to describe it in a certain manner. Turiel, a close colleague of Kohlberg's, wrote both theoretically and experimentally about progress between Kohlberg's stages. He theorised (following Piaget) that the transition from one stage to the next is marked by a period of conflict between two mental schema, in which old modes of thinking are re-evaluated and new ones are constructed (Turiel, 1974). A person remains capable of reasoning according to stages beyond which they have progressed, but is

less likely to continue to find such reasoning convincing. While this chapter addresses social influences and apparent regression elsewhere, in general children need exposure to an environment which stimulates a change in their mental processes, along with time for conflict and reflection. Children (and adults) must make such progress to more advanced principles themselves, though appropriate prompts may speed the process, as this chapter goes on to explore. An instruction to reason in a manner of which a pupil is not yet capable is unlikely to be found convincing, or even understood. If told to divide some sweets equally, a stage 1 child will hear an instruction from authority that must be obeyed, rather than consider a principle of fairness. The instruction cannot encourage reference to principles which a child has not yet come to understand. Consequently, it is important to address fairness in the right way when discussing outcomes to conflict with children in restorative discussions. This chapter goes on to propose how Kohlberg's stages provide a useful model for a teacher to quickly estimate for a particular child what that way might currently be.

### **Developments and refinements of Kohlberg's model**

Kohlberg's model has been modified and developed variously by Kohlberg himself, his collaborators, and scholars working separately over the years since its initial conception (Goslin, 1969). Some proposals have been for quite extensive modifications, concerning the existence, nature, and content of stages, methods of assessment, and the domain of the model's accuracy. Specific modifications have little impact on the utility of this model for the reasoning proposed in this thesis, on which this section shall elaborate. Kohlberg's own modifications to his theories, and areas about which he had doubts, provide a sharper focus on the utility of this model for understanding the promotion of reasoning about fairness in restorative discipline. As described above, Kohlberg's stages 5 & 6 were found to be reached by few people, and a contributor to this was perhaps the complexity of expression required to demonstrate that one's thought was operating at such a level. An impersonal orientation towards a problem may not have been matched by a subject's philosophical vocabulary to express the shape of their thinking in a manner recognised by Kohlberg's scale. Kohlberg found stage 6 to almost entirely populated by those with formal philosophical training, and withdrew this from his model as a later refinement not only due to the paucity of experimental results to support it, but also from concerns about how this stage seemed tied to the values of the academic establishment, when the indicators of reaching stage 6 are

arguably an issue of how moral reasoning is presented rather than the processing taking place. For this thesis, the presentation of one's reasoning is a core goal, and in accordance with the privileging of overt rationality as discussed in chapter four there is some benefit and no harm to retaining consideration of this stage. In the context of this thesis, Kohlberg's work provides a means of understanding children's capabilities and development in understanding issues of fairness. Whether desirable outcomes are part of the development of moral cognition itself or aspects of presentation is not a concern for the utility of Kohlberg's model in helping teaching professionals understand the reasoning of which particular children are currently capable.

Until his death, Kohlberg continued to make modifications to the model to better fit both further theoretical work and empirical results. For example, experimental data suggested a return to what resembled stage 2 reasoning in beginning college students, which would have challenged the hierarchical nature of the stage system. Kohlberg's initial claim was that individuals would remain capable of reasoning in the manner of levels they had surpassed, but find such reasoning increasingly unconvincing, and prefer reasoning of the highest level of which they were capable. Further refinements to the theory developed what was effectively a stage 4.5: often, Kohlberg claimed, college students were seen to wrestle with a developing sense of the need for third-person considerations and a model resembling a stage 5 social contract. Yet a transitional stage was observed in which the demands and the complexity of their thinking gave way to what was superficially a resigned egoism, which belied the advancement of the thinking going on underneath. For a complete account of moral cognition and development, as Kohlberg was aiming to provide, this is a substantial concern. Again, however, this is not problematic for using this model as a swift point of reference for understanding a child's likely realms of comprehension, as this thesis proposes for the support of conversations about fairness in restorative discipline. In a real-time, practical context, different approaches can be made that appear *likely* to be correctly pitched and the way forward can be judged from a child's response. It is not for measuring the development of an individual in detail that this model is proposed, but rather for the ability to make a swift attempt to pitch a conversation at an appropriate level of complexity, on which the following section elaborates.

Kohlberg also considered the existence of a stage 7, succinctly describable as concerned with ἀγάπη (*agape*), the Greek term for familial love for all; a transcendental concern for the whole of society that borders on spiritual domains. Whether spiritual concepts with emotional components are to be included in a theory of rational cognition or not, many would desire to include concepts such as this in an account of morality. Kohlberg was committed to rational cognitive development comprising the whole of moral development, a position it is not necessary for this thesis to adopt to find his model beneficial.<sup>75</sup> This thesis claims that awareness of this model would be beneficial for those seeking to have rational restorative discussions in schools, rather than that it comprises a full account of the psychology of morality. Kohlberg's model fits with the reasoning about justice and fairness proposed in this thesis, with complete descriptive accuracy less relevant to its utility here. Again, the example of a simplified model of electron shells is relevant. For teaching purposes, certain inaccuracies and imprecisions may be tolerable if they promote a particular desirable goal effectively. If I want to save a child from walking into traffic, while I would prefer not to grab her physically I am happy to do so if the nature of the intervention is less important than the result obtained. Kohlberg's idea of cognitive moral development is not the utility of this model here — rather, how his model translates to supporting the understandings of rational fairness proposed in this thesis.

Kohlberg's morality translates more onto the concerns of justice (in the terminology adopted here) than onto concerns of morality. Reasoning about fairness in this thesis is second-order reasoning — superordinate to individual claims about moral good, and able to allow for a plurality of moral positions while evaluating possible fair resolutions to conflict. These arguments, and their reflection of democratic structures, remain unchanged from their presentation in chapter four. What Kohlberg describes as moral judgements are not moral judgements in the sense that this thesis uses the term. When Kohlberg describes the shift to metacognition in his stage three, asking what one *should* do, this does not distinguish the demands of justice (what we ought to do for/owe to each other) from an individual moral code. That Kohlberg describes it as morality is not a problem for this thesis, and it is rather analogous to the models used here in that the type of thinking he suggests

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<sup>75</sup> A composite position that allows for both rational and non-rational/spiritual concerns has recently been presented by Gibbs (2014)— a position that continues to avoid the pitfalls of a strong relativism, as Kohlberg would have wanted.

people develop is not understood in terms of moral codes or character, but rather thinking that becomes progressively closer to this thesis' rational consideration of justice as one moves up through his later stages.

Stage 3 sees the development of concern for maintaining relationships. This is addressed by the existing work on repairing harm in restorative conversations. Stage 4 concerns authority, duties, and rules. The authoritarian classroom might present authority as present in the teacher's rod, while the democratic collective may vest it in the resolutions of a community meeting. Education can be conducted about what authority may be considered just once the value of authority begins to be recognised. Stage 5 overtly references social contract, which this thesis has already presented as likely to be a desirable means of reasoning, and this chapter goes on to explain how contract-based reasoning can be deployed for those at lower levels of Kohlberg's scale than at the stage which is typified by 'classic' contractual understanding. Stage 6 contains further reference to impersonal principles of the sort that may be moral beliefs, but may also justify principles at the second order which allow for a plurality of moral positions. These would be principles such as those of deliberative democratic discussion being necessarily prior to those of the moral principles discussed within them. Whether or not these stages perfectly describe human cognitive development concerning either morality or principles of fairness, they do provide a clear and empirically-supported measure of types of reasoning of which individuals tend to be capable before they can understand other, more advanced types. If a child struggles with understanding why it is beneficial to remain on good terms with others (stage 3), then Kohlberg's progressive model provides a clear and succinct point of reference for concluding that referring to principles of justice might be beyond a young child at this level of development.

Kohlberg's writings suggest a clear interest in promoting thinking about justice, and that its distinction from morality is not critical to finding common ground over the use of his model in promoting developmental thinking, and a distinction that was not always clear throughout his writings. Kohlberg writes on Rawls that 'the central achievement of Rawls' theory is that it represents the first clear systematic justification of the principles and methods of decision we call "Stage 6", principles and methods of decision only partially articulated by Kant' (Boyd, cited in Munsey et al., 1980). Like Rawls, Kohlberg accepted that that no one view of the good can be taken as overriding. In school environments, teachers

work with conflicting claims of interest based on different moral positions, analogous to plural conceptions of the good in a democratic society. Boyd highlights that Kohlberg sometimes identifies his concept of 'morality' with justice. This thesis strongly distinguishes the two, but Boyd minimises this gap by condensing a number of Kohlberg's different formulations of justice to a claim that 'Justice is the general moral perspective through which competing claims of persons should be resolved' (p.192). This is an excellent fit for the conflict management techniques deployed in restorative discipline environments to reach across a range of individual moral positions. The influence on the higher levels of Kohlberg's model of Kant and Rawlsian justice fits with an understanding of justice as able to adjudicate over differences between personal moralities, as in the aim of this thesis to better fit students for plural democratic societies.

Aside from arguments about the complexity of the mental operations involved, it is on the grounds of a Rawlsian conception of justice and impartial, third-person, rational thought that Kohlberg's model finds support for claiming that a given stage is more advanced, and more desirable, than a previous one. This in turn builds on Kantian ideals, with fairness considered above one person's individual perspective on what is right, and in line with the arguments for justice within a democratic structure throughout this thesis. Kohlberg was rigorous in his address of philosophical foundations to his psychological work, and built on Plato as a foundation for his exploration of the development of a person both in terms of their education as an individual and as a member of a state. It is, however, the similarity in formulation between the highest stages of his notion of moral development and Rawls' justice that provides the clearest example of his model fitting the philosophical principles under discussion here as well as describing psychological phenomena.

As development of students' rational capabilities is a primary goal of this thesis, Kohlberg's model can provide a useful understanding of how certain types of reasoning are persuasive and accessible to those at different stages of development. At the higher stages, Kohlberg's moral cognition involves similar reflection on justice to that which is required in considering what is fair in a restorative conversation. If a student communicates in a manner suggesting their understanding of justice is at one of Kohlberg's levels, then his data suggest that it would probably be unconvincing to use reasoning from more than one stage above the student's level in conversation with them, and consequently that they would gain little

benefit from such discussions.<sup>76</sup> Such situations might lead to a student feeling forced to agree with a teacher's reasoning — perhaps because the teacher is still considered the source of authority through power — and undermine the transition from discipline as something done *to* students to something done *with* them. Possessing an idea of how young people's reasoning about morality and justice develops helps an adult present ideas about the social contract at a level better able to develop understanding of the principles of Rawlsian justice that undergird our social institutions. A social contract of enlightened self-interest (as discussed under Hobbes in chapter five) might be a practical way of engaging with those at Kohlberg's stage 2, whereas less self-centred presentations can be made to those who appear to have progressed to a further level of development. As the above summary of Kohlberg's six stages demonstrates, the core elements of his theory can be presented quickly and simply to one wishing to understand which types of reasoning are acquired before others.

The superiority or otherwise of specific refinements to Kohlberg's system is not a primary concern for adding practical value to developmental discussions in schools. Rest's 'Defining Issues Test' (Rest, Narvaez, Bebeau, & Thoma, 1999) is an example of a detailed alternative measure of moral development that was inspired by Kohlberg's work, and its assessment takes on an entirely different form to reflect his different conception of developmental stages: a subject grades a series of arguments about a moral dilemma in order of preference, and (according to Rest) their response to each statement shows whether a particular schema — a way of looking at moral issues — is currently active in their thinking. 'Currently active' is specified rather than 'previously activated', as early stage moral arguments look less convincing when one moves on to more sophisticated concerns in evaluating a moral dilemma. Rest's method seeks evidence of Post-conventional reasoning. The core principles are similar enough to Kohlberg's in practical application that it seems sensible to adopt a system that can most easily identify a point to target, and a particular manner of approach. Both Rest and Kohlberg's models would assist with the central practical concern of correctly pitching discussions of the social contract with students, as described in detail below.

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<sup>76</sup> Data from Kohlberg's Just Community schools are examined in more detail below.



## Judgement of an individual's level

In a formal experimental environment, Kohlberg judged an individual's level of moral development from their response to dilemmas which presented hypothetical moral problems for their evaluation. One example is the famous Heinz dilemma, which runs as follows:

In Europe, a woman was near death from cancer. One drug might save her, a form of radium that a druggist in the same town had recently discovered. The druggist was charging \$2,000, ten times what the drug cost him to make. The sick woman's husband, Heinz, went to everyone he knew to borrow the money, but he could only get together about half of what it cost. He told the druggist that his wife was dying and asked him to sell it cheaper or let him pay later. But the druggist said, "No." The husband got desperate and broke into the man's store to steal the drug for his wife. Should the husband have done that? Why?

(Kohlberg, in Goslin, 1969, p. 379)

Test subjects were asked to explain whether or not Heinz should steal the drug, and why it would be right or wrong to do so. The *type* of reasoning they deployed was illustrative of which of Kohlberg's levels they had reached, rather than on which side of the argument their decision fell. For example, a stage 3 subject might reason their way to justifying the theft on the grounds of Heinz loving his wife, and wanting to be a good husband; or to condemning the theft on the grounds that he should not steal and would be blameless if his wife died, as he has done all he legally could and the druggist was being the heartless one for standing in his way. A stage 5 response, by contrast, might be to defend the theft on the grounds of the law being inadequate for such situations, or to condemn it on the grounds of the ends not justifying the means — both references to impersonal principles.<sup>77</sup>

These responses suggest the language one could effectively deploy when discussing fairness in a restorative conversation. If a student is reasoning at stage 2, presenting a win-win proposal may be effective rather than referring to principles of fairness. If a student shows signs of stage 3 thought, then a teacher can refer to good character and making the others involved happy, and thus inclined to help them in the future. Stage 4 can reference laws or rules that a pupil considers to be justified, while stages 5 and 6 can refer to appropriate

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<sup>77</sup> A fuller expansion of sample responses can be found in the above source.

abstract principles. If attempting to engage in a developmental manner, rather than simply secure the swiftest desirable outcome, one can engage in stage 4 reasoning with a pupil that exhibits signs of stage 3 reasoning, and similarly mix referring to the next level up with reference to models which an individual currently finds persuasive for students in other positions. All these levels and approaches can be tied to reasoning about fairness in some way, even for those with a limited understanding of what that entails, and grounded in theories of the social contract. Stage 2 reasoning focuses on pragmatic reciprocity, and Hobbes' model of social contract can encompass this. The focus on what one should do in stages 3 and 4 can be understood in terms of Scanlonian universal obligation, but presented in terms appropriate to being a good boy or girl, or following the rules (of justice). Reasoning to a contract of what one ought to rationally agree to can be done in terms of maintaining community harmony, rather than necessarily in the abstract terms of Kohlberg's Post-conventional levels. A framework of considering fairness in situations of conflict can be promoted consistently throughout a school, and it can be the language and conceptual emphasis that changes as students' understandings of what exactly fairness entails develop.

Responses to the Heinz dilemma can provide an illustration of how individuals at different levels may reason, yet the level of precision it provides is not vital for application to the discussion of immediate issues of justice in a restorative conversation or conference. Asking an adolescent what the fair response to a conflict under discussion is might provide a similarly helpful response through the reasons they present in even a short answer, such as references to fairness, intention, law, or principle, and may provide enough to suggest how to pitch a discussion at an appropriate level in a situation where further exploration is either not possible or inappropriate. For example, a student who demonstrates stage 2 reasoning in response to the Heinz dilemma might well respond to the question 'What would be fair here?' by trying to cast a solution in terms of both or all parties getting what they want. While it is an assumption, it would be reasonable to respond to them by presenting concerns of fairness in stage 2 or 3 terms, and referring to either pragmatic reciprocity or the expectations of others. A stage 4 thinker might reply to the same question with reference to obeying the rules, whether the rules are fair, and perhaps the demands of their conscience; the same concerns as would be more specifically elicited by the Heinz dilemma,

but which may emerge anyway in response to an open question. Such a thinker could be responded to in terms of what rules or outcomes here would be fair for everyone, a discussion that can begin in the terms of stage 4 and progress into the language of stage 5. Furthermore, such estimates can easily be provisional in practice; one may start an attempt to reason with a student in a certain way, but there is no obligation to continue using the same methods of persuasion if they seem unproductive. Whether using the Heinz dilemma or some abbreviated method of estimation, matching a student response to Kohlberg's scale gives a good idea of an individual's currently preferred level of moral reasoning. This consequently aids with pitching a restorative conversation appropriately, whether aiming for their preferred present level of reasoning or the next level above with the intention of stimulating development.

### **Domain theory**

Before engaging in a restorative conversation about fairness, it is important to consider whether the issue under discussion is likely to be considered by a pupil to be a concern of morality, or one merely of social convention. Nucci, Turiel, and Smetana's work on domain theory suggests that if a transgression is not viewed to be a moral violation, then it may be worth considering a different type of address to the conflict, or beginning with an argument that the matter in question is one of moral rather than merely personal import. Judging the correct level at which to phrase an appeal to fairness is likely to be ineffective if a pupil considers a matter to be their personal concern, rather than one for which the interests of others need to be taken into account. This also affects what styles of responses are perceived by children to be fair, as explained below.

This theory, developed from Kohlberg's work by Nucci, Turiel, and Smetana and presented for classroom application in Nucci (2009), addresses 'social conventional' reasoning not as a stage of moral reasoning, but as a distinct category outside of the model's scope. Their empirical work on moral development shows not only that an awareness of fairness comes at a very early developmental stage in young children (Nucci, 2009), and is cross-culturally universal as far as has been tested, but that primary school-aged children are quick to recognise the difference between those transgressions of rules that Nucci has dubbed 'social conventional', those that are 'personal', and those that are in the 'moral' domain

(because of their impact on the well-being of others). A school rule not to eat hot food in a classroom might be viewed as a social convention; one of the rules for the smooth running of the school and not to hold particular moral content (though this view could change in the course of argument). A rule to keep one's hair short might be understood as a convention by a young child, but cause conflict in teenage years as it is viewed to be part of the 'personal' domain, and not within the school's moral remit to control. Whether one is allowed to respond physically to someone who interferes with one's possessions is an example of an issue that might be seen as 'personal' if one does not yet consider impersonal rules which may be universal, and firmly within the 'moral' domain if one does. The nature of one's understanding of a transgression can change according to one's moral development, and this has consequences for how it might best be addressed in restorative discussion. One would hope that an appropriately attentive response to a disciplinary issue would bring this to the fore in most circumstances as those involved are able to express their perspectives, and the two-way nature of restorative discussions facilitates such discovery further.

Uncovering such differences in perspective is important because of Nucci's research on what responses are considered fair in response to transgressions against standards of each type by pupils of different ages: an authoritative response to a social violation is more likely to be seen as appropriate by a primary-aged child, while a reasoned response and request for perspective-taking would be more effective for a perceived moral violation with a secondary student.

Thus a two-way discussion of a problem with, for example, a school rule opens up the space to evaluate a student's response in terms of their progress through Kohlberg's stages, and also to be aware of whether the intended style of response is appropriate for what the pupil considers the type of problem to be. In most practical circumstances of secondary school conflicts, an understanding of Kohlbergian stages and a response at the developmentally appropriate level is unlikely to be a gross violation of Nucci's domains of response. However, it is worth considering whether something that a teacher considers a matter of social convention might be something that a pupil considers personal if it is impeding reaching agreement over a fair solution to a disciplinary problem.

## **‘Just Community’ schools in comparison with restorative communities**

Kohlberg and his fellow researchers conducted significant empirical research on attempts to raise the moral reasoning level of students to higher stages of his moral development scale. ‘Just Communities’ were the school environments Kohlberg and his colleagues established with the specific aim of raising pupils’ levels of moral cognition in accordance with his theories. This section describes the nature of his Just Community schools, compares them with restorative communities, considers the data on their outcomes, and highlights why concerns with Kohlberg’s methods would be significantly ameliorated if such methods were applied in the context of restorative discussions as part of the PB4L initiative.

Kohlberg’s Just Community schools were school-wide experiments (or at least micro-schools — self-contained environments within larger institutions) designed to be environments conducive to the development of moral cognition as well as their conventional educational functions; environments intended to harmonise the hidden curriculum, school governmental structures, and the formal curriculum. The initial implementations were in two alternative schools: the Cluster School, an alternative school within the Cambridge High and Latin School, where students and staff were given equal say over the operation of the school, and the School-within-a-School at Brookline High School, where a separate community was established in order to provide a ‘whole-school’ environment supportive of Kohlberg’s moral education programme.<sup>78</sup> The curricula of both schools featured timetabled slots for the group discussion of moral issues, which took place in community meetings similar to those in democratic schools such as Summerhill and Sudbury Valley, where the rules of these communities were open to democratic debate and change.<sup>79</sup> This practical implementation of Kohlberg’s theories addressed real life dilemmas, not hypotheticals, as would also be the case in the context of restorative discipline discussions. The focus in Just Community schools was on establishing collective norms, rather than facilitating individual moral reasoning: restorative conferences are able to focus more directly on individual reasoning if desired due to their one-to-one or many-to-one nature, rather than being analogous to community meetings.

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<sup>78</sup> See Wasserman (1976) for a detailed account.

<sup>79</sup> With some limits in the case of Kohlberg’s communities: the pursuit of moral development was not itself open to challenge, as discussed below.

While these environments were more democratic in structure than contemporary New Zealand schools, the core features of an environment suitable both for productive discussions of Kohlberg's moral situations and for restorative discussions about justice are encouraged under aspects of the Ministry of Education's PB4L initiative. The Just Community approach is a 'process of democratic schooling that involves collective establishment of rules and responsibility taking in concrete situations instead of hypothetical dilemma discussion' (Oser, 1990). While restorative practices do not demand democratic school environments, the core features identified of democratic Just Communities are very similar to those central to the restorative environments being instituted under PB4L, as explained below.

Oser isolates the following five principles as central to Kohlberg's Just Communities:

- There must be reasons for decisions.
- Students must feel that the results of the discussions will be carried out.
- Decisions are based on democracy and fairness.
- There is a climate of trust.
- There is a basis in social contract.

(Oser, 1990)

Each of these has a parallel in PB4L:RP. The first point can be understood to suggest that reasoning for decisions should be overt, transparent, or given to pupils on request (as it is fairly trivial for there simply to exist reasons for decisions). In Just Communities, all pupils were party to decision-making processes in community meetings. Restorative conversations are undertaken co-operatively with students, rather than imposed upon them, and courses of action are only adopted when the pupil also has participated in and accepted the reasoning for a given course of action. Both models value the public exercise of reason, and are more democratically accessible than traditional authoritarian approaches to conflict resolution — and this is all the more so for restorative practices which pay greater attention to the rational as proposed in this thesis.

The second point demands that students feel that their reasoned decisions will be translated into according practical actions. Restorative environments place weight on consistent and honest adherence to the outcome of discussions, as described in chapter three. Both environments require that the discussions are taken seriously as the means of

solving a problem, rather than being a cosmetic nod to co-operation with little impact on real decision-making in the school.

A base in democracy and fairness, as demanded of Kohlberg's communities in point three, has been central to the proposals of this thesis throughout. The extension proposed to restorative discipline gives even greater prominence to these concepts than their current implementations, where restoration of prior relationships may not necessarily consider whether or not those relationships are fair.

A climate of trust requires that commitments to action are followed through, and that communication is honest. While restorative practices cannot guarantee this, neither could Just Communities, though it is a feature typically reported of successful restorative environments (Sellman et al., 2013). Conscientious implementation of policies — as opposed to a lip-service that is sometimes undercut by authoritarian methods — supports this, as reflected by the emphasis placed on the importance of a supportive environment for restorative practices by Drewery and Thorsborne & Vinegrad in chapter three.

Finally, that a basis in social contract was considered important for Kohlberg's communities supports the idea that social contract reasoning can underpin restorative discussions even though 'contractual' type moral reasoning is only ascribed to those at Kohlberg's stage 5 and above. A contractual model can also be presented to pupils as reflecting other, more accessible conceptions of fairness, as described above.

Kohlberg's Just Community schools appear to feature environmental conditions similar to those that would be present in a New Zealand school adopting restorative discipline practices, at least in the areas important for Kohlberg's moral education and for restorative discussions about fairness. While Kohlberg's school communities were specifically set up to nurture and support pupils' cognitive moral development, and used regular formal community meetings to support that primary goal, extended restorative practices are a structure that aims to weave learning about fair restoration into the practice of conflict resolution in a school whenever such mediation is needed. In Just Communities, time was specifically set aside for the Socratic discussion of moral issues, with the aim of developing the students' moral reasoning over an extended course of such discussions. This is more analogous to discussions that occur under the aegis of Philosophy for Children than

restorative discipline discussions, although the content of both can be similar — especially concerning questions of justice. Some pastoral time may end up dedicated to the discussion of issues of fairness in PB4L schools in a similar manner, but (as discussed in chapter five) a positive of addressing the rational in restorative discussions is how much of it can take place in time devoted to ‘behaviour management’. The principles of such moral discussions can be addressed via concrete situations of personal relevance that need to be dealt with in any case through the process of school discipline. Using this educationally ‘dead’ time<sup>80</sup> to develop rational thinking about fair resolution to conflicts as well as to carry out some unavoidable management functions of a school avoids a primary criticism of any such proposal that Kohlberg would have faced: that classroom time is taken from other, ‘more deserving’ areas. An institutional commitment to the practice of restorative discipline provides key elements of the democratic, accountable environment that Kohlberg identified as important for effective moral development. Furthermore, even if a school environment lacks some of these elements, a restorative conference itself by its very nature is democratic, holds members to account, and gives all those involved a voice. It features collective agreement on its rules, and shares responsibility between all those present for its outcome. The micro-environment is appropriate, even if the reality of the macro-environment sometimes fails to live up to its own ideals.

Just Community meetings were an attempt to create a living, concrete, community implementation of the morally developmental discussions followed in Kohlberg’s hypothetical, classroom-based Socratic ‘dilemma discussions’. The methods of his discussions, whether in the Just Community or the moral education classroom, have considerable similarities to the methods proposed for developing the consideration of fairness in restorative conversations. Methods for leading Kohlbergian discussions have been proposed by a number of theorists who built on his work, and although some of the pedagogical techniques in these books are no longer contemporary they illustrate practical approaches to attempting to promote moral development according to Kohlberg’s scale. Leming (in Modgil, Modgil, & Kohlberg, 1986) lists Arbuthnot & Faust (1981), Reimer,

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<sup>80</sup> Not literally the case, but this is how time spent on discipline issues is often perceived. One could describe one of the aims of this proposal as to make elements of the hidden curriculum overt, and improve upon them.



Hersch, & Paolitto (1983), and Galbraith & Jones (1976) as practical guidance books on how teachers can implement Kohlbergian methods in schools.

They describe a typical classroom procedure for a Kohlbergian discussion as follows:

- 1) Clarify the dilemma.
- 2) Students adopt a position.
- 3) Group work to discuss their reasoning.
- 4) Test and evaluate arguments in full class discussion.
- 5) Encourage students to re-evaluate their position and reasoning individually.

These map fairly well onto identifying a conflict under discussion, considering the outcome one personally desires, and subjecting one's idea of a fair outcome to trial by public reason. In a restorative discussion, one could ask a student what would be fair in a given situation, and then discuss how a third-party might rule here if they could not decide who was in the right, as described in chapter five. The techniques of Kohlbergian educators look to be translatable to contexts other than those of the whole-community meeting.

It is harder to find consensus on the data concerning the progress in moral cognition attributable to Just Community environments. The extent of their successes is disputed, and conclusions based upon them have consequently faced challenges. Leming's 1985 review of Kohlberg's practical experiments (Modgil et al., 1986) is informative on this, as Kohlbergian moral education was a policy under consideration at the time of its writing, and empirical evidence for its efficacy would have been important to its evaluation. Blatt claimed an initial success in the practical implementation of cognitive moral education after engaging intermediate and high school students in a semester of Socratic classroom dilemma discussions (Blatt, 1969, as cited in Blatt & Kohlberg, 1975). He found that a third of the students involved moved up in their reasoning by a Kohlbergian stage, whereas the control students remained unchanged. Fenton & Kohlberg, however, attempted to recreate the Blatt study results and trained high-school social studies teachers to lead developmental discussions of hypothetical moral dilemmas in their classes. They recorded mixed results: control groups showed no measurable moral stage change after nine months, as expected,

but only half of the experimental classes replicated Blatt's findings; the other half demonstrated little change (Colby et al., 1977, cited by Rosenzweig in Munsey et al., 1980, p. 377). Leming claims, however, that overall the effect on student reasoning is not particularly controversial: that 'reviews of studies of the moral discussion programme of Kohlberg show a convincing stage change in student moral reasoning, between .033 to 0.5 of a stage over an academic year' (Modgil et al., 1986). Other variables may sometimes affect the success of implementing Kohlbergian moral discussions, but positive results show significant levels of improvement in moral reasoning over the corresponding experimental control groups.

### **Criticisms, and their lesser relevance for restorative discipline**

There are both practical and theoretical concerns that arise when considering the creation of an environment suitable for cognitive moral development — or for the consideration of fairness in conflict resolution — in a mainstream school. Significant issues that direct implementations of Kohlbergian methods have faced are eliminated or minimised when translated to the context of this proposal for restorative discipline.

Firstly, two practical questions that are less of an issue for this proposal than for schools that have instituted Just Community practices in the past. The need for staff members to want to participate in such an environment, and such discussions, can clearly be a factor. The magnitude of this is greatly minimised by the fact that all schools involved in the Restorative Discipline strand of Positive Behaviour for Learning have chosen to opt in to a whole-school cultural change. Asking teachers to consider addressing behavioural infractions in terms of rational fairness as well as addressing harm through empathic responses is a small change in the context of a whole-school cultural transformation. Senior Management teams have already undertaken to instigate a fundamental shift in relationships across their whole school communities, and support mechanisms and training programmes are ready to be put into place when a school opts in to the programme. While Kohlberg himself claimed some difficulty in changing teachers' conceptions of themselves from classroom managers alone to moral educators (Modgil et al., 1986, p. 543), the other commitments of the PB4L:RP initiative have already undertaken to meet this challenge. The demands made of teaching staff are considered in further detail below.

The cost is a similar concern: as described in chapter five, the expense of the institutional changes and training programmes is an undertaking to which the Ministry has already committed, and this proposal requires only a change to the way restorative discipline is sometimes enacted. This economic viability and ripe opportunity are bonuses when considering that such changes to 'moral' education have on prior occasions seemed sufficiently desirable to introduce even without specifically opportune circumstances.

One theoretical concern raised by Just Community participants was that while the rules of their micro-community were open to discussion, the rules of the broader school were not. This is somewhat analogous to living under the law of a nation's government, as considered in chapter four: one does not have easy access to the highest level of legislative machinery to which one is subject. Some discussions of a just course of action may be beyond the power of a community to institute directly through democratic mandate, though this is in itself educative about the nature of the compulsions under which we live, and an opportunity for those invested in critical pedagogy to explore these issues. Education in this tradition involves a teacher encouraging students to question concealed ideologies and oppressive exercises of power in their environments, including those of schools (hooks, 1994). Primarily associated with Freire, and his influential *Pedagogy of the Oppressed* (Freire, 1968/2000), this approach developed out of Marxist critical theory and aims to help students develop a critical consciousness of oppression. While discussions of fairness can be used to pursue such issues if a teacher or school desires, it is not necessary to follow such an approach or even take a strong position on social justice in order to enable the restorative conversations proposed in this thesis. Conversations about justice can be allowed to develop organically, or in accordance with the particular values of a school and its leadership. In either case, discussions of fairness are well-placed to consider the justice or otherwise of the power dynamics that dictate the limits of pupils' authority over their own educational environments.

The criticism of Kohlberg's Post-conventional stages may be argued to undermine a model which does not exclude them. However, in the context of developing students for participation in democratic life, the ability to articulate one's reasoning about justice acquires extra value. Kohlberg (1984) found only 13% of his adult subjects to have fully or partially reached stage 5, and all of them had some graduate level education. As discussed

above, his stage 6 consisted of an élite with formal philosophical training, with little empirical data in evidence of its broader representation throughout his sample populations. Gibbs (2014), Rest, and Pinker (2011) separately raise that the higher stages seem to require *articulating a principled reason* (emphases mine) for why, for example, human life trumps the value of law — and that the intuitive route to this conclusion is not given credit. Gibbs argues that Kohlberg's model confuses basic understanding with reasoning that reflects philosophical training, and construes stages 5 and 6 as hypothetical reflection on normative ethics.

A major aim of adding work on cognitive moral development to restorative discipline discussions is to educate citizens to be better able to participate in deliberative democracy. To contribute better arguments for consideration by public reason, one needs to be able to communicate reasons in a manner acceptable to others. As argued in chapter four, logical theories of causation have a mutual acceptability between individuals that emotions, affect, and hunches do not. It seems therefore beneficial to employ a model that ascribes value to the ability to reason one's way to a position, and to be able to explain it to others, as this proposal aims to develop overt rational reasoning about fairness. Restorative discipline does not need to claim that discussions about fairness *are* morality, in contrast with Kohlberg's preference, and consequently giving less attention to moral intuition is not a problem when considering fairness and justice as opposed to morality. A good argument for the public space requires well-reasoned articulation. The better schools can educate our citizens to participate in such discussions, the stronger our deliberative democracies — regardless of whether such an ability is part of the development of moral cognition or not. This suggests that, for the purposes of this project at least, there remains benefit to considering Kohlberg's Post-conventional stages.

The importance of developing such communication also outweighs concerns about whether improving moral reasoning improves moral behaviour. The improvement in reasoning itself is a desirable outcome, and a focus solely on behaviour is not a complete conception of school discipline, as argued in chapter one. Developing an understanding of justified authority and a disposition to act in accordance with it are two separate goals of good school discipline. A shared goal of Kohlberg's cognitive development and this thesis' proposal for restorative discipline is to develop the ability to take a third-person perspective

and consider notions of justice and fairness. Developing the will to act in accordance with such reasoning is a problem faced by both, and usually associated with Kant in terms of translating a rational acceptance of how one should act into personal motivation to do so. That is to say, justifying reasons are not necessarily motivating reasons. Even Kohlberg's stage 6 does not answer moral motivation — why to act morally — (Straughan, 1986) and Kohlberg himself would have been well aware of the inconclusive evidence for the link between moral reasoning and behaviour, citing Blasi (1980), a contemporary literature review that finds evidence of the link between moral reasoning and behaviour to be ambiguous and conflicting. The model developed in this thesis parts company with Kohlberg in not asserting the rationally cognitive necessarily to encompass the entire domain of morality, but for the development of this to be a significant element of school discipline, and thus the impact of this concern is lessened. It is not necessary to stipulate a complete separation between moral cognition and moral motivation, and one is not left relying solely on knowledge of a failure to perform due reciprocity as a primary motivator for moral action. There can be other motivations to act both morally and justly, and these are explored in chapter eight. Developing justice reasoning can be desirable even if it does more for one aspect of good school discipline than another, and this thesis does not claim to solve the whole problem of moral motivation. The non-cognitive considerations addressed in the final chapter have a great deal to say about moral motivation, and how, while reasoning about fairness can address the understanding of justified authority, the empathic work in restorative conversations can do much for moral motivation — a feature on which Kohlberg's methods alone could not draw in meeting the challenge of all three aspects of good school discipline as defined in chapter one.

One final set of concerns to address are those of Zalaznick (1980), an ex-student of Scarsdale Alternative School, concerning the compulsion to participate in developmental discussions. He refers to 'moral intimidation': that students were aware there was a purpose to their school — to make them 'more moral' — beyond their influence, despite their greater participation in community governance. The school's purpose itself did not belong to its students, as discussed above. Awareness that there were 'right sides' and 'wrong sides' to moral issues, and that some of Kohlberg's stages were considered more

advanced than others, led students to 'close up cognitively and no longer be open to cognitive reorganisation'.

It may be the execution that was the primary source of the issue here, rather than the objective of cognitive moral development itself. If students participate in discussions with a focus on developing analytical abilities, rather than being aware that certain types of answer demonstrate greater development, then the pressure to perform by giving a 'right' answer which one personally does not accept is reduced. An environment without an obvious goal of moral development is much less likely to undermine a student's trust in their own reasoning and engagement with the process than one where a position to which they reason might be graded as sub-optimal. The literature on Kohlbergian classroom technique could benefit from the practical insights of contemporary Philosophy for Children programmes in such respects.

It is possible that Zalaznick felt as he did because moral arguments progressed beyond a level at which he could personally reason at the time. A student in such a situation might feel pushed to accept conclusions that they do not find justified, and which are at odds with their moral reasoning. In a restorative discussion, as opposed to a formal classroom group discussion, such a situation is easier to avoid. In a many-to-one or one-to-one context, the issue can be presented to a student at a proximate level for them to engage with based on the nature of their responses. The focus is on developing their thinking, rather than the end-point of a lesson plan.

On the issue of compulsion, the development of students' reasoning capabilities is an undertaking from which they cannot usually opt out in formal education. As argued above, following Gutmann and Thompson, rational development is important for the equal development of democratic citizens. This is not 'moral education' in the colloquial understanding of promoting certain character traits or articles of faith, and should not be presented as such.<sup>81</sup> Matters of individual belief may remain untouched by reasoning about fair ways to deal with disagreement. The ability to reason from outside of one's own belief system is desirable in education for participation in a secular state, and developing such reasoning is not restricted to any one programme aimed at developing thinking skills. The

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<sup>81</sup> More on different understandings of moral education follows in chapter eight.

value of rationality as defended in chapter four is important for the equal development of individuals, and using restorative methods to develop it is in accordance with the New Zealand Curriculum: the values of awareness of one's community and the role of reason in understanding the world clearly fit two of the five key competencies of the New Zealand Curriculum, 'Relating to others', and 'Thinking' ('Key competencies / Kia ora - NZ Curriculum Online', n.d.). The nature of how morality should be construed can be open to democratic discussion in schools, while certain other values, such as the value of each individual as a human worthy of respect, are legally enforced and provisionally established as starting points for democratic debate. The purposes of schooling in our state are not currently open to significant redirection by those within them. If one wishes to address that the system is not open to democratic self-transformation into, for example, a feudal society governed by the oldest students where discrimination by race or religion is acceptable, then one may do so within the realm of state-level democratic debate.

The purpose of addressing reasoning about fairness in a restorative context is not to 'make students more moral', as Zalaznick described the aim of Just Communities, but to develop the skills that help an individual reason more effectively from a justice perspective: a crucial difference in emphasis. This distinction was not made in the prototypical Kohlbergian classroom, and is important not to misunderstand. It may be beneficial to speak of restorative discussions as being socially educative, rather than morally educative, to avoid accidentally implicating the realms of individual morality and faith, which may raise concerns of moral indoctrination. Students who perceive themselves to be pushed towards a different moral position may understandably feel a degree of coercion. Students however do not need to like or 'believe in' justice personally to benefit from understanding how it works and ought to be applied in a community for fair resolution between individuals of differing beliefs. People whose ability to adopt the perspective of others is still developing might see the enforcement of justice as coercive, and it may be easier to accept its merit when it is presented as what is fair, rather than what is morally good. Overall, a central goal of this proposal for restorative discipline is to develop students' reasoning so that they can reflect upon their own conceptions of goodness and fairness, rather than forcibly to overrule their moral judgements. This is much less vulnerable to objections of the kind Zalaznick raised above.

## **The practicality of a Kohlbergian framework for social contract reasoning in restorative discipline**

This section addresses the practicality of rational discussions of justice given the capabilities of both teenagers and schoolteachers. It examines the data on which of Kohlberg's levels are typically understood by both groups, and whether this is sufficient for meaningful citizenship education. It describes how the existing commitments of PB4L provide a strongly supportive environment for the rational consideration of fairness, that introducing such consideration requires little addition to existing training commitments, and the increased likelihood of lasting cultural change in the context of restorative practice.

The capability of children to understand different modes of reasoning is central to Kohlberg's work. For teenagers (and thus for the secondary school environments at which this proposal and the Ministry's initiatives are aimed) the experimental data suggest that models of justice which can be understood by those at stages 2–5 may be most appropriate. Gibbs, Basinger, Grime & Snarey's (2007) cross-cultural study has adolescents moving from the stage 2–3 range, with stage 4 at adulthood. A focus on stage 3 reasoning in the earlier secondary years will often be appropriate, as the attention to relationships in restorative discipline provides, but a contractual model also provides the scope to reach ahead to the higher levels of reasoning in later years, considering the nature of law, fairness, and justice when they are relevant and comprehensible. The simple social contract models discussed are a comprehensible structure that makes an engagement with stages up to stage 5 as accessible as possible. This is not an unreasonable stretch: the data suggest that stage 3 is reached in late childhood/early adolescence, and some people progress to stage 4 in late adolescence. More importantly, contracts themselves do not have to be discussed in stage 5 terms, as explained above. A model should allow for developmental reasoning above a student's current stage as well as at their current level, and there is data to support work two levels above a student's understanding leading to noticeable benefits (Walker, 1982).

For small communities, such as those around students at which restorative discussions are aimed, stage 3 reasoning may be sufficient for worthwhile developmental conversation. The broader society-level concepts that are a part of the higher stages are not prerequisites for useful discussion to take place. Moral debate can focus on the micro-society and then



analogies can be made to wider society, in a manner reflective of how schools can be seen as a training ground for the adult world. At a lower level of development, one can still understand the system without the need for abstraction. Gibbs (2014) describes stage 3 as 'not moral cognitive adequacy for living in a society more complex than that of a small community'. Yet it is from such a small community that the discussions and opportunities for growth can arise. Kohlberg's model supports how rational development as well as empathic development is an important part of school discipline for citizenship education. By his theory, primarily addressing relationships in a restorative discussion would largely be attention to a 'stage 3' orientation. Sometimes this might be the ideal level for an individual's stage of development, though knowledge of Kohlberg's levels offers a simple way to judge when another approach might be more developmental, and what form that approach might take. An empathic approach to maintaining or restoring good relationships is not always the best motivator towards moral action. Establishing such grounds as primary for evaluating moral behaviour may have negative consequences in later life if an individual comes under pressure from an immoral environment. For example, a pressure to maintain good relationships with those close to you in an organised-crime family is unlikely to lead to optimal moral outcomes. A Kohlbergian framework can provide a quick mental reference for how to frame the reasoning of a discussion, especially when considering fairness seems more desirable than appealing to empathy.

The capabilities of adults involved in such conversations also merit consideration. Is an impractical level of sophistication being requested of teachers to reason about fairness in these ways? Leming addresses this issue, describing an understanding of the stages of moral reasoning as 'an invaluable tool for teachers wishing to engage in meaningful moral dialogue with students' (Modgil et al., 1986).

He raises the issue of the stage reasoning of teachers, and that teachers cannot be expected to expose students to reasoning one stage beyond their current level if they have not reached such a stage themselves. He quotes a study by Giffore and Lewis (Modgil et al., 1986) that found Michigan teachers' predominant stage orientations to be 4 and 5A, with 43% of the samples' reasoning at the principled level. This is consistent with Rest's (Rest et al., 1999) finding that 42% of college graduates reason at the principled level. On an individual basis, many teachers will be sufficiently advanced to conduct effective

developmental discussions with school-aged youth; but on the other hand, some will reason no more effectively than their high-school students, and will be unable to lead such discussions effectively until they have achieved a level of moral reasoning (in Kohlberg's terms) sufficient to understand the appropriate stages. Leming also posits that many teachers who lack the development to become effective teachers about principles of justice will likely reject the ideals and goals of a programme such as the Just Community. Education about fairness may not seem central enough to some teachers to adopt voluntarily into their teaching repertoire, yet the challenge of this problem is one that the current PB4L initiatives have already undertaken to meet — as when a school opts in to a system requiring whole-school cultural change, not all teachers will be comfortable with the adaptation to restorative systems that is required. An additional small element to the proposed changes does not significantly add to the difficulty of the commitment already made to face such challenges. Under the current PB4L:RP initiative, whole-school change is being instituted and supported, environments are being structured around pupil development rather than behaviour management, and a commitment to training has been made which supports key principles of both restorative practice and Kohlberg's Just Communities. The system-specific changes that are necessary to address justice reasoning as part of restorative discipline are comparatively slight. Rational discussions of fairness can be brief or extended. They do not need the apparatus of fixed community meetings typical of Just Community schools. As discussed in chapter five, one can refer to a simple principle of fairness in a short disciplinary interaction rather than needing a full, Socratic discussion, yet such a discussion can also form part of a longer restorative conference. At the other extreme, if a school does have time assigned for political and social education, the principles themselves can be subject to community-level discussion. To whatever depth the notion of fairness is explored, clear reference to this contestable principle works to undermine disciplinary decisions being seen as merely the will of the powerful; the rule of 'them' over 'us'.

As teachers have many demands upon their time and energy, it is helpful to keep the amount of knowledge required for such discussions light. A simple understanding of taking a third-person perspective to discuss fairness, and of a contract made from an initial position of impartiality, is enough to encourage the rational consideration of fairness as well as the

emotional consideration of harm in basic disciplinary discussions with children. This is far from the requirements of a full Kohlbergian training for teachers to be able to benefit students' 'moral development'. As in all aspects of the social and pastoral education that takes place in schools, some teachers will be better equipped to respond beneficially to the daily unforeseen events that take place than others. Ideally, educational professionals would be as proficient as possible across a wide range of areas not universally considered central to their role; most would acknowledge that a certain level of pastoral skill, for example, as well as ability to transmit a curriculum is desirable. In school justice at least there is scope for a highly reductive approach to a complex topic to be markedly beneficial, and at the very least to provide some guidance for impartial reasoning about moral issues for which teachers are not always prepared.

In Kohlberg's original contexts, there was some concern over whether the usage of such methods would gain traction in schools. A 1977 study by Silver (Leming, in Modgil et al., 1986, p. 251) followed up teachers instructed in the theory and practice of Kohlbergian moral education. From a sample of 25 of the 60 teachers in one cohort, two years after their training, 80% reported a change in their thinking regarding moral education but showed no concomitant shift in their teaching practices. A year after Kohlberg's Danforth project (training 20 teachers in the Boston area to use Blatt-type moral dilemma discussions in the classroom), only 1 out of 20 teachers involved was conducting moral discussions in the classroom. Long-term changes in approach proved problematic to achieve (Modgil et al., 1986).

There is great opportunity for such a problem to be lessened in the current environment in New Zealand, where schools and teachers are committing to new, whole-school approaches to relationship management which involve restorative discipline discussions. Supportive changes to school environments are being made institution-wide as well as by willing individuals. Restorative techniques that are introduced are to be supported by structures that reinforce a culture of their usage, as described by the policy documents in chapter three. This should ideally make relapse less natural as substantially new environments are associated with new methods. Revised administrative structures and behaviour policies may necessitate new ways of managing conflicts, such as restorative conferences, rather than enabling the continuation of previous strategies. Teachers are to be trained to manage such

conferences using methods congruent with restorative and democratic theories, and these environments simply do not sit as easily with authoritarian or traditional techniques as a familiar classroom situation may have done to Kohlberg's subjects. Under these new arrangements, where restorative justice and community are to be at the heart of school discipline, the environment is receptive for work on developing the rational consideration of fairness to be added to the methods already used in restorative discipline conferences.

In summary, knowledge of Kohlberg's stage theory can help teachers in quickly evaluating the type of moral reasoning a child seems to be employing at a given time. This can help them discuss fair resolution to a dispute with a student at a level that they can engage with and that will stimulate thinking about justice, rather than accidentally making an argument a student does not understand and sees as something they simply have to accept due to the teacher's power.

Social contract-based reasoning can be deployed in restorative discussions in a manner accessible to students at a range of Kohlbergian levels. That it is a contract-based understanding does not restrict its usefulness to those of a stage 5 orientation. For example, a fair compromise can be presented as mutual reciprocity (stage 2), as doing the 'right thing' (3), following the rules (4), or in contract-theoretical terms (stage 5). A contractual model can serve as a template against which 'fair' outcomes can be evaluated at the level most comprehensible to those involved in the discussion. An understanding of how notions of fairness develop, through social contract theory and Kohlbergian stages, equips an educator with an easily-tailorable model to deploy in response to the challenging question, 'Why?'

Kohlberg's work on moral development provides empirical data as well as useful terms of reference for understanding pupils' developing conceptions of justice. His 'Just Community' schools serve as a historical parallel that shows the potential for success in using restorative discipline to attend to the rational as well as the empathic. Criticisms of these experiments are far less applicable to the use of similar methods in restorative conversations than to their original contexts. A Kohlbergian model can help to present contractual reasoning more effectively within restorative discussions, and the supportive environment of PB4L may help avoid or mitigate some of the issues his related conversations faced forty years ago.

Discussions Kohlberg instituted to support his goals of moral development can inform the conduct of restorative conversations to promote the understanding of fairness and justice.

Kohlberg was working from the insight that moral development was not complete by the end of childhood, but was something that continued to develop throughout adult life.

Developing students' moral capabilities is only infrequently remarked upon as an aim for school education, perhaps in part because of the difficulty in separating personal convictions of 'morality' from that which is required by justice in a secular state. This distinction is exceedingly complex, and not one that everybody is willing to hear because of their personal moral convictions (and thus there is all the more reason to encourage the ability of children to think from a third-person perspective). The final chapter of this thesis explores a particular challenge to Kohlberg's position that highlights how different conceptions of morality can coexist alongside the development of thinking about justice, and that both can be addressed and developed by restorative discussions.

## **Chapter 8**

### **Care, empathy, and their relationship to justice in school discipline**

Prior chapters of this thesis have focused on the benefits of addressing questions of fairness in restorative conversations. The rational consideration of justice has been argued to support the development of pupils' understanding of justified political authority, one of the three components of good school discipline identified in the first chapter. While chapter four addressed particular advantages to developing pupils' rational capabilities (such as the wider acceptability to other persons of rational reasons than other types of reasons), this chapter addresses a separate challenge to assuming the superiority of a rational approach in situations of conflict. Care theory argues that justice and rational ways of thinking have traditionally been over-valued or over-privileged in the consideration of moral questions. This chapter will consider this challenge, further distinguish concerns of morality from those of justice, and ascribe complementary value to both fairness and caring-based approaches in the resolution of school conflicts and the meeting of the goals of good school discipline. In much of the literature, care is set directly against rational approaches to morality and justice, and this chapter argues that this does not need to be the case: a clearer distinction between morality and justice — the good and the right — shows that the two approaches can coexist productively, and without the considerable theoretical tension that might initially seem to exist between them.

This chapter begins with an examination of the core claims of care theory, introduced by its presentation as a direct challenge to rational theories of morality such as those developed by Lawrence Kohlberg. It proceeds to consider whether its tension with rational concepts of justice jeopardises this thesis' argument. It addresses this by further clarifying distinctions between morality and justice and their relation to different aspects of the goals of good school discipline.

The following section considers how care theory is also beneficial for the meeting of the third goal of good school discipline, developing pupils' dispositions to act in accordance with just authority. It presents care theory as an example of a sentimentalist approach to morality, and addresses the benefits that such approaches provide for the development of

moral motivation. A careful distinction between the concepts of empathy and sympathy helps illustrate how both justice and care can contribute not only to moral motivation, but also to the development of the disposition described above through different approaches to restorative conversations.

The fourth section addresses the claim that developing pupils' abilities in both justice and care comprises moral education, and consequently compares these approaches with character (or virtue) education, the third major secular claimant to this space. It proposes that it is necessary to address more than one of these approaches for a broad education about the content of morality, and that it is possible to address them all in restorative communities without theoretical inconsistency.

The final section addresses how theorists of justice and care have approached either the combination of or the conflict between the two approaches, and explores how both problems and solutions this raises can be accommodated by an overarching apparatus of deliberative democracy as adopted throughout this thesis. The chapter concludes with how both justice and care can contribute to the meeting of the goals of good school discipline through different approaches to restorative discussions.

## **Care theory and its challenge to cognitive moral development**

Care theory — and its significance for the argument of this thesis — is perhaps best introduced in terms of its conflict with the work of Kohlberg covered in the previous chapter. This is illustrative not only of its significance for this thesis, but also of its initial formulation in opposition to a particular set of claims about morality. Kohlberg framed his work on cognitive development described above as the development of moral cognition. Developing the ability to think in more sophisticated ways about the rational requirements of moral behaviour was presented as gaining moral sophistication, and reaching higher and more desirable understandings of morality.

Care theory takes issue with this claim. Is it the case, so it argues, that this is an accurate description of morality? Or is it rather a description that favours only one type of moral thinking; a type preferred by certain privileged groups, at the expense of the recognition of

others? This was initially a feminist challenge to the claims of Kohlberg, and indeed to a great deal of ethics in the western philosophical canon.<sup>82</sup> Such a model of moral thinking, care theorists argued, privileged the type of moral engagement that came more easily to the male and the formally-educated mind. It marginalised the intuitive approach to morality, and the impulse to care — an impulse, so the claim went, that was associated with feminine (and thus trivialised — on which more follows) domains and concerns.

Kohlberg's work was strongly influential in the 1960s and 1970s, before the explosion of work challenging the claim of the white, male, western, educated academic voice to be impartial and objective. Carol Gilligan's *In a different voice* (1982) can be considered as where this criticism of Kohlberg primarily originates. She isolates what she considers serious shortcomings in Kohlberg's work: that all the participants in his studies were men, the essentialism of some of his judgements of gendered capabilities, and the presumption of certain contextual values. Kohlberg's scale of moral development leaves most adult women attaining level three on his developmental scale, whereas many men attain level four. Was it correct, so this criticism went, that capability as an impersonal, universal quality was being measured; or was it that this quality of rational judgement being at the heart of moral judgement was central from the perspective of a specific subgroup of humanity, and other voices were being marginalised? The educated, white, male voice which 'naturally' turned more easily to impersonal concepts such as justice was valued as a more developed and sophisticated form of moral judgement than the 'feminine' focus on relationships and caring. A critical assessment of these claims would require a much deeper exploration than this chapter alone will afford, but it shall be clarified below how the compatibility of these apparently opposed models can be evaluated without taking a position on whether one approach has been unfairly privileged over others, and likewise whether or not these different approaches correlate with either biological sex or gender. Both approaches claim to describe major components of morality, and are thus worthy of consideration in an environment that respects moral pluralism such as the restorative school.

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<sup>82</sup> While many contemporary thinkers hold positions with which care theory is compatible, the challenge against a foundational claim for morality to be a rational field of inquiry was far-reaching. This chapter addresses the compatibility of care theory with moral sentimentalist positions, such as those of Hume, below.



For Gilligan, as mentioned, her work was primarily a feminist critique at the outset. Noddings' work is central to understanding the development of care theories (1992, 2002a, 2002b, 2013), and she also identifies her approach to be feminist in nature. Consideration of care theory as *primarily* a feminist argument has, however, reduced over time, including in Noddings' own consideration: her early works feature more gender-essentialist language than later works and editions, and it is illustrative of this change in emphasis that the third edition of her core text on the subject, *Caring*, features an alteration to the subtitle, from *A feminine approach to ethics and moral education* to *A relational approach...* Her work addresses 'culturally feminine' virtues — that is, those which a culture finds it praiseworthy for one gender to have, but which are less respected in another — and how they are valued differently in certain domains, such as in the family in contrast with in the public sphere.<sup>83</sup> While the language used can soften the emphasis on sex and gender of such an argument, it is still reasonable to claim that some virtues (e.g. chastity) are more readily associated with women than men, and consequently that it remains an issue for gender egalitarians, whether they identify as feminists or not.

Care theory considers concerns other than rational justice to be at the heart of good human relationships. Care theories concentrate on the qualities of human relationships, rather than the qualities of atomic individuals. This focus on connections is at odds with the basic liberal conception of individuals seeking to maximise outcomes from their personal perspectives; an assumption made by many who work with concepts of justice in the tradition of Kant and Rawls. Care theory emphasises the direct contact between people, and the emotional links between them, as a basis for making moral decisions rather than reference to reason.<sup>84</sup> It shares ideas with moral sentimentalism (on which more below) in wanting to ascribe value to common human emotions that many people would consider to have moral content. Care theorists recognise the involuntary nature of many of our connections, such as many familial connections, as opposed to those voluntarily agreed to in hypothetical contractual situations. For Gilligan (1982), men turned more easily to the objective, the idealised, and principles such as freedom, rights, and autonomy; the 'different voice' often demonstrated by women, she argued, was not inferior but focused more on a connected self: on the

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<sup>83</sup> Addressed further with reference to Tronto (1993) below.

<sup>84</sup> Although neither approach is necessarily exclusive of consideration of the other, and this chapter shall proceed to elaborate on this.

relationships in which one operates, and emotional engagement. Care theory does not prioritise reason as a basis for the ethical treatment of others, but rather seeks to give prominence to genuine caring relationships. It recognises the fundamental interconnectedness of people, rather than positing autonomous rational actors in the original position. Caring is driven by emotional moral motivations rather than some rational conception of moral obligation. Through a deep emotional engagement, the carer seeks to work out what is good for another person. If one assumption of many concepts of liberalism is that of individual separateness, care features an assumption of connectedness.

For Noddings, 'Moral people rarely consult abstract principles when they act morally' (Noddings, 2002a, p. 1). She describes the purpose of moral reasoning as 'to establish and maintain caring relations at both individual and societal levels'. Under her model, caring can be divided into four stages: caring about, care taking, care giving, and care receiving. This should not be taken as an attempt to make care procedural — a process that one could replicate by robotically adhering to an ordered set of prescriptions — when it is intended to be emotionally driven. Rather, it is to clarify the particular rational construction of effective caring as she construes it. 'Caring about' can be described as the initial recognition that there is a problem to be addressed: for example, being distressed that children are going blind from preventable diseases. This stage does not require a direct human relationship to be effective. 'Care taking' is the recognition that there is some responsibility for you to do something about an issue, and that you have the agency possibly to do so. This describes a similar element of morality to Kantian notions of duty. 'Care giving' is the direct moral action, motivated by care, in a context where one is genuinely relating to another and concerned by their needs and feelings as closely as possible to as if they were one's own. 'Care receiving' helps us prioritise functions as a check on our assessment of needs; that this was a problem that it was right to care about. It asks whether the care has been appreciated, and if the relationship is now stronger (Noddings, 2013).

The affective basis of caring and the identification with the other involved in genuine care are differently characterised by different writers. For Noddings, 'engrossment' pertains to the idea of identification with, and fellow feeling for, another individual: the feeling of their concerns as if they were one's own. Many understandings of empathy are close to this, notably that of Slote (2007), for whom it is the basis of his theory of morality. Section three

of this chapter addresses this in detail, and contrasts empathy and sympathy in order to clarify their different roles in care theories.

Such a model as caring sits congenially with Buber's (1923/2004) work emphasising the encounter between one's self and that which is other. One can situate caring in the encounter between the self and an other that ceases to be an object, but is approached with a mutual humanity and granted recognition thereof. This is mentioned to highlight the stark contrast in philosophical traditions between care theory and some contractarian approaches to morality such as that of Gauthier described in chapter five. Care theory considers affective openness and connection to be important features of the human condition, experienced in connection with others whether one desires such connections or not. Contractarianism attempts to legislate for a Hobbesian situation of mutual indifference, where such connection may not be apparent to parties seeking a beneficial outcome to a conflict. Both these starkly different approaches can nevertheless coexist in an environment that uses restorative methods to address conflicts, as the next section goes on to describe.

This is not to say that care is entirely an affective and non-rational process. Behind Noddings' engrossment there is a substitute procedure for when this emotional connection is lacking. For Noddings, 'ethical caring' is a rational substitute of lesser desirability for when the genuine caring emotion is lacking. One should summon the image of oneself as an ideal carer, and act as that carer would act on becoming aware of lacking the appropriate emotional impulse in a given situation. For example, there are times when both medical professionals and school staff might feel their reserves of compassion have run dry after dealing with draining situations for extended periods of time. In these situations, an emotionally 'honest' response to a patient or pupil when short-tempered or exhausted would provide them with an inferior level of care that they may have done nothing to deserve. The lesser desirability of Noddings' 'ethical caring' is persuasively defensible: would a wife wish her husband was by her side in the hospital out of a desire to be there and support her, or out of a sense of ethical obligation? On these grounds, Noddings' work can be read as more compatible with Kantian duty than her own emphases might suggest it to be, especially if one considers these situations to arise with great frequency in some professional lives. Care ethics requires no moral effort, according to Noddings, rather requiring being genuinely moved (this is her 'natural caring'). 'Ethical caring' comes from the

caring ideal, when natural caring runs short. Noddings contends that this ethical caring can be a threat to natural caring: we are uneasy when receiving good care from duty, rather than from feelings.<sup>85</sup> Such a form of caring may be admirable in certain situations, but is a risk to caring relations. This notion of the caring ideal as a guide for caring action may seem strongly suggestive of virtue ethics, but a care ethic is distinguished by its proponents from a virtue characterisation of caring by consisting of the action and the relationship, rather than a disposition towards such action (though virtue ethicists can challenge whether or not this is a substantive difference).

An ethic of caring appears to have fundamental differences with rational approaches to morality. It focuses on relationships, rather than principles; on the concrete, contextual, and particular rather than the formal and abstract; and on activity, not judgements. Because it is particular, it is necessarily responsive (or vulnerable, as a critic might put it) to changes in the cultural environment. Because of the political condition of women, care has perhaps received inadequate attention: to quote Tronto, 'Care is marginalised, devalued as work and associated with the needy, the trivial, and the personal rather than the political' (1993). Measuring moral ability in Kohlberg's terms produces conclusions that value the abilities and approaches of the groups with the highest social power as the most morally developed. Care ethics prioritises the caring relationship and other concerns traditionally associated with the feminine role.

Care theory is not an anti-rational position, but makes claims against the rational having primacy in considerations of morality. Given that moral intuitions can vary significantly between persons in similar situations, and that affective reasons are not as mutually accessible as rational reasons (chapter four), this may not seem to provide clear grounds for solving conflicts in schools through restorative discussions. The next section describes how the adoption of both approaches in restorative discussions allows for the benefits of each model without making theoretically contradictory claims.

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<sup>85</sup> This is illustrated by the emotions of the wife saved from drowning in Williams' thought experiment, presented below.

## **The coexistence of care and the rational, given a distinction between morality and justice**

Kohlberg claimed his cognitive development to concern morality. In the terminology of this thesis it is not moral in itself, and its proposed use in restorative discipline is primarily concerned with reasoning about justice. Throughout this thesis morality has been considered a matter of personal decision, on which a reasonable pluralism of positions are possible and for which reasons do not have to be intersubjectively acceptable. Chapter four considered how moral difference is discussed under deliberative democracy, and chapter six the defensibility of communities espousing particular moral positions, such as faith schools. To recap the relevant distinctions, when moral positions are found to be in irreconcilable conflict then the apparatus of justice can be used to evaluate fair outcomes to these conflicts, in accordance with the structures of deliberative democracy. This is a second-order apparatus, to deal with irreconcilable differences between first-order beliefs. Fair outcomes are construed rationally, and reasons to support them need to be rational in order to be widely acceptable to parties holding different moral beliefs.

In this thesis, Kohlberg's work is used to support rational discussions of fairness through restorative discipline: that is, concerns of evaluating just outcomes. While Kohlberg would claim his model to represent morality, by dropping this claim it becomes compatible — for the sake of informing developmental discussions in a restorative environment — with the claims of care theory.

Care theory can be understood to make claims about the moral domain. The call to include moral intuition in an account of morality is not at odds with preserving a rational approach to justice for impartial adjudication in cases of moral conflict. This thesis does not give rational justice elevated status above the moral, as the language of 'first-order' and 'second-order' may seem to suggest, but rather employs it as the mutually acceptable point of retreat when moral debate reaches irreconcilable difference. Its adjudicative power is not from a superior position within the moral domain, but from an external position from which to evaluate competing claims in a manner that an impartial observer could accept. Some reasoning about fairness may be adopted by individuals in their personal moralities, but this is not something either stipulated or excluded by the structures that this thesis proposes.

The claims of care theory, consequently, can be assimilated as one of many moral positions in the reasonable pluralism of a deliberative democracy, in accordance with the analysis of these concepts in chapter four. Some people may hold Kohlberg's position to describe morality. This would be a rival, and incompatible, claim to the nature of morality if held alongside those of care theory. Using some of Kohlberg's apparatus to inform a necessarily rational means of comparing different moralities is not. It is not given pre-eminence over any moral concerns, but rather the licence to evaluate compromise when there are conflicts between them. When particular moral positions conflict with or deny a society's requirements for justice is a situation that was explored in detail in chapter six, and addressed with reference to principles of deliberative democracy. When parents' beliefs conflict with their children's rights to an education about justice, this thesis follows Gutmann and Thompson in prioritizing the children's claim; that education ought as far as possible to enable students' development for full and equal participation in democratic adult life. The domain of justice is not considered pre-eminent over morality — holding adjudicative power does not imply a hierarchy of domains, but rather than a difference in the category of the objects that they can assess: questions of morality in the moral domain, and fair resolution between incommensurable or incompatible moral positions for justice.

The following groupings of concepts illustrate the above distinction:

The domain of justice: The rational, Kohlberg, fairness, and 'the right'

The domain of morality: The emotional<sup>86</sup>, care theory, 'the good'

While these groups are not exclusive of each other, such a division may help clarify the typifying concerns of morality and fairness. As an example, the moral may include elements of the rational, and of justice (attending to justice can be considered morally good), but the role of justice in conflict resolution is a distinctly separate, extra-moral concern.

Both these types of thinking are therefore important, and restorative conversations in schools can productively attend to developing both of these. The existing focus on

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<sup>86</sup> The emotional is permissible here *in addition* to the rational: this is not a claim for morality to be an entirely sentimental concern, as is addressed below.

restoration and empathic connection primarily addresses morality<sup>87</sup>, whereas prompting consideration of fairness can help develop thinking about justice. This also is not a stark division: students may feel an emotional and empathetic draw to doing what is fair, and, conversely, people may be swayed by reason to act in accordance with what they think the good course of action to be. However, thinking about what is fair, and examining one's feelings about what would restore a relationship, may be more comfortable default positions absent of context than feeling what is fair, and thinking about what would restore the relationship. Both may prove productive, and this further strengthens the argument for restorative conversations to develop the facility to consider rational fairness as well as the emotional restoration of relationships.

### **Moral motivation and the third goal of good school discipline**

Having the ability to attend to both rational and emotional development in restorative conversations aids meeting the three goals of good school discipline. The core focus of this thesis has been to show how exploring fairness in restorative conversations can help to develop understandings of justified political authority (goal two). The existing literature on classroom management systems primarily addresses their maintenance of order to enable effective learning (goal one). The third goal, developing the disposition to act in accordance with justified authority, has been less of a focus, but the material in this chapter makes a contribution to the meeting of this goal. As discussed in chapter seven, part of the reason the primary focus has been elsewhere is that solving the question of moral motivation is far beyond the scope of this thesis. Even given the distinction between justice and morality drawn above, which renders this a problem of being motivated to act in accordance with justice rather than one of moral motivation, the issues with addressing it are similar. The rational approaches so far described in this thesis can be argued to account for moral motivation, but such an approach is not without its problems. Moral intuition and moral sentimentalism provide an emotional means of accounting for moral motivation, and this section describes how the possible coexistence of justice and care described above enables

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<sup>87</sup> Such restoration may not always be morally defensible (see the previous examples of restoring situations of great inequality, or relationships within an organised-crime family), but restorative discipline makes the general claim that restoring relationships is usually a desirable outcome, and greater specificity over what ought and ought not to be restored is the subject of ongoing research.

both to be built upon by restorative discussions to aid in developing the disposition to act in accordance with justified authority.

Understanding moral motivation as wholly drawn from either rational or emotional concerns presents a number of philosophical problems. This is well-illustrated by a thought experiment of Bernard Williams' (1981), which runs as follows:

A man sees two people drowning, and has the opportunity to save one. One is his wife, the other a stranger. The man checks with the abstract moral principle to which he adheres, confirms that he is allowed to show partiality to those with whom he has a close familial bond, and dives in to save his wife. His wife might criticise him for 'having one thought too many' before diving in to save her, a criticism which seems worthy of inclusion in an account of morality. The grounds for this are clearly a desire for the rescue to be motivated by some form of emotional impulse rather than one's faculties of reason alone, and this is not allowed for by a wholly rational account of moral motivation. In Noddings' terms, this illustrates how we prefer to receive genuine, relational care rather than her 'ethical care' as a rational substitute. Conversely, valuing emotional motivations without reference to the rational is incompatible both with utilitarian calculation of outcomes and with Kantian principles, as emotions might lead us away from that which it might fairly be ruled anyone should do in such a situation. Perhaps one is temporarily enraged with one's spouse, and more inclined to save a stranger, yet one's specific duty of care has not lessened. Bloom claims that empathy in such situations is 'biased; it's innumerate; it can be weaponised. It makes us worse people ... we should make our moral decisions without empathy, through rational deliberation' (Bloom, 2017). Emotions are subject to a variety of influences, including environmental factors that one may consider ought not to affect a particular decision, and may lead to different moral conclusions in analogous circumstances, unlike approaches based on reasoning. Noddings' care theory defends holding care and relationships as superordinate to the judgements of reason, with her employment of 'ethical caring' as a rational substitute in situations where care runs short. This emotional approach to morality addresses Williams' initial problem, but not without raising difficulties in other situations: what if, to return to an earlier example, one has close ties to an organised-crime family and caring for those close to you might harm many further afield? Neither emotional nor rational approaches to morality and moral motivation are without



their problems, and consequently both deserve consideration in the realm of democratic debate, in accordance with the environments of reasonable pluralism stipulated throughout this thesis.

Given that finding a complete solution to moral theory and moral motivation is far beyond the scope of this project, it is sensible instead to consider the impact of different approaches upon a restorative school environment. The following section argues how reference to both sorts of model may be productive for developing different children's thinking when resolving conflicts in schools.

While it is possible to draw on rational motivation to act in accordance with moral requirements (i.e. for justifying reasons to also have some force as motivating reasons), emotional concerns may seem easier to draw on in many practical situations such as disciplinary discussions in schools. Wholly neglecting emotional inducements to act rightly would be imposing unnecessary difficulties on restorative discussions that broadly focus on rational concerns of justice. The possible coexistence of care theory with cognitive moral development in restorative environments enables a clean way of addressing this. Care theory, with its basis in moral intuitions, is one of a broader set of approaches to morality which are led by emotional concerns, described as moral sentimentalist theories. The following section analyses the concepts of sympathy and empathy that are typically central to such theories to illustrate more clearly how both sentimentalist and rationalist approaches can help encourage the development of motivation towards good school discipline through different kinds of restorative discussion.

### **Moral sentimentalism, empathy, and sympathy**

Slote (2010), whose contemporary moral sentimentalism based on empathy is described below, provides a concise summary of a key argument in favour of some sentimentalist approaches to moral motivation. Our motivations to moral action, so the argument concludes, are less well accounted for by a theory which posits that we are fundamentally autonomous (such as liberal theories of justice in the tradition of Kant and Rawls) than one which acknowledges the connections between individuals; connections which we do not choose, and which permit a theory that gives prime attention to the relationships in which people live, as opposed to considering isolated rational actors.

Even the earliest writers on moral sentimentalism, however, recognised its insufficient allowance for considerations that this thesis describes as those of justice. Smith's (1759/2000) and Hume's (1738/2009) conceptions of sympathy illustrate some of the confusion over how these concerns of justice might be included in a sentimentalist conception of morality.

For Hume (1738/2009), the communication of passions rests on inference, and out of these inferences, sympathy arises. The term 'sympathy' is understood to carry at least four separate meanings in different parts of his works (Agosta, n.d.). He considered the interaction between reason and passion to be 'too fine and minute' for philosophy to separate. For Hume, there is a black box here. He saw extensive sympathy in man, but limited generosity. He argued that benevolence was the root of justice, but would not always extend far enough alone to create justice; an approach that Noddings' ethical caring echoes in acknowledging that our emotional responses will not always be sufficient. For Smith (1759/2000), there was a more cognitive element to sympathy. It involved imagining oneself in the same situation as another, and then imagining how one would feel in that situation. Smith desired reason to be a moderating influence over the concerns of sympathy, in a manner more analogous to the adjudicative role of justice over moral conflicts as described in this thesis.

The model adopted here allows for attention to concerns of justice and concerns of care (or morality) to be considered separately, rather than necessarily including justice in an account of morality. However, further distinction between empathy and sympathy will clarify how both emotional concerns (of morality and of care) and rational concerns of justice can separately contribute both to moral motivation and to the disposition to act in accordance with justified political authority.

The word empathy itself is a fairly recent coinage, arising from psychological literature at the beginning of the twentieth century.

In the English language "empathy" simply did not exist prior to Cornell University psychologist Edward Bradford Titchner's (1909) neologism in translating the German word "*Einfühlung*" as "empathy" in his lectures based on his work in the laboratory of Wilhelm Wundt (Agosta, n.d.)

In non-academic contexts, the terms empathy and sympathy generate a fair amount of confusion, though the division proposed here is in line with many attempts to disambiguate the two for writers, students, and teachers of English as a foreign language ('Empathy vs Sympathy - Difference and Comparison | Diffen', n.d.; 'Empathy vs. sympathy - Grammarist', n.d.; 'empathy vs. sympathy : Choose Your Words : Vocabulary.com', n.d.) as well as with specialist philosophical and psychological analysis.

That is not to say there is either academic or general consensus on the matter. Some of the conflict may be because of the historical changes in the uses of the terms, and the multiple fields in which they are employed. The etymologies of the terms are of limited use, given the nebulousness of the Greek prepositions *ἐν* and *σύν* and that one term is a neologism constructed in parallel to the former. The distinction adopted here is as follows:

Empathy is the ability to feel as another feels: to actively imagine oneself in a similar situation to another, and feel as best as one can imagine what they are feeling. It is an emotional response, and the one on which care theorists draw. While it is not isolated from cognitive considerations (on which more below), it is related to the 'natural' response to which Noddings refers; more desirable in her theory than a rational attempt to recreate similar in a situation of 'ethical caring' when one's emotional reserves of care have run dry. The analogue in the psychological literature is 'affective empathy': to respond with the appropriate emotion to a stimulus involving another person.

Sympathy, on the other hand, is more intellectualised, and less emotionally connected. The specific usage adopted here is very close to the term's colloquial usage as an adjective: if I am sympathetic to your plight, I believe that I have an understanding of the salient features of your situation, that I understand why it is a problem, and that I intellectually understand why you might feel bad to be in this particular situation. It does not entail any emotional feeling of this, yet such feeling is not excluded. The two concepts are tangled: sympathy is primarily intellectualised, yet emotional responses may follow. In the psychological literature, this is more analogous to 'cognitive empathy', which is the process of thinking to understand how another perceives a situation. This is much more related to theory of mind, understanding another's mental state, and perspective-taking than to an affective response. Empathy and sympathy involve both perspective-taking and fellow-feeling in slightly

different forms. In fellow-feeling, any feelings that may be elicited in a sympathiser are from their own perspective, whereas empathic feelings are close to the sufferer's feelings. In perspective-taking, empathy involves an approximation of inhabiting another's perspective, whereas sympathy involves having an approximate cognitive conception of it but maintaining an external standpoint.

Some definitions lack specificity:

*sympathy* is feeling compassion, sorrow, or pity for the hardships that another person encounters, while *empathy* is putting yourself in the shoes of another.

(‘Empathy vs. Sympathy | Dictionary.com Blog’, n.d.)

This definition may seem to imply a reversal of which of empathy and sympathy is primarily emotionally-based, but leaves room for doubt, as ‘feeling’ in this context — and in that of the rest of the article — could be read as ‘awareness of’. The emphasis here is on the distinction between the external awareness of another's hardships and the taking of their perspective, rather than on whether either empathy or sympathy has an emotional or cognitive basis.

Sympathy is a compassion and sorrow one feels for another, but empathy is more focused around personally identifying with or projecting oneself into another's situation.

(‘Empathy vs. Sympathy: What's the Difference? - Writing Explained’, n.d.)

This definition captures the projection in empathy, and recognises that sympathy entails a recognition of another's difficulties, but also appears to move the primarily emotional response from empathy into sympathy with the ambiguous nature of ‘feel’ in the first clause. To ‘feel for’ someone can be an intellectual sympathy with their plight, and the absence of any mention of feeling in the second clause may suggest a contrast that is unintentional.

A pair of definitions from an academic philosopher and psychologist, in contrast, captures the important distinctions well and shall be followed from this point:

(Empathy) involves, first, seeing someone else's situation from his perspective, and, second, sharing his emotions, including, if any, his distress.

Sympathy ('fellow feeling', 'community of feeling') is a feeling of care and concern for someone, often someone close, accompanied by a wish to see him better off or happier ... sympathy, unlike empathy, does not involve a shared perspective or shared emotions, and while the facial expressions of sympathy do convey caring and concern, they do not convey shared distress. Sympathy and empathy often lead to each other, but not always. For instance, it is possible to sympathize with such things as hedgehogs and ladybirds, but not, strictly speaking, to empathize with them. Conversely, psychopaths with absolutely no sympathy for their victims can nonetheless make use of empathy to snare or torture them.  
(Burton, 2015)

This clearer division of empathy and sympathy can help distinguish the separate role of 'ethical caring' — the intellectualised substitute for an emotional impulse to care — in Noddings' model of care theory. Sympathy with a person's suffering can correspond with her 'caring about', and can be used to generate the motivation for ethical caring from an intellectual construction of how they are likely to be feeling. For Noddings, this is cognitive and does not require a direct human relationship to be effective. In contrast, her actual 'care-giving' is direct, and is aided by a relationship; this requires empathy. It is empathy which is directly conducive to caring relations, and sympathy which has the intellectualised distance of Noddings' ethical caring.

This helps illustrate how an argument can be mounted against a strict division between emotional grounds for moral motivation and rational arguments for justice. It is easier to develop dispositions to act in accordance with just political authority (the third goal of good school discipline) if both emotional and rational considerations can contribute to this. The typical pairings have already been addressed: moral sentimentalism accounts well for moral motivation, while knowledge of one's duty following Kant and Rawls can encourage adherence to justice. The former may seem easier to draw upon than the latter, and it would be desirable to be able to employ this also in the development of motivation to act in accordance with justice. Both considerations can, in fact, also apply to the other domain: sympathy, as Noddings' ethical care, appears to be a rational motivation to moral action, as understood by sentimentalist theories. Conversely, some individuals may consider rational concerns to be part of their moral theory, as Smith (and a great number of other ethicists) would allow. They may consequently be emotionally motivated to do what is right (in terms of justice) by considering it itself to be morally good. Kohlberg's model suggests that this is

likely to be a considerable demographic in schools: students at stages 3 and 4 are likely to consider being a co-operative member of a community and supporting rules as part of what being good entails, and may draw upon the corresponding motivations. There are also possible emotional inducements to respecting just authority that are non-moral: a student may emotionally value being in an environment where profound moral conflicts are typically resolved, and a democratic or community environment, in which pupils participate in school governance and have some say in the construction of school rules, can encourage emotional investment in the operation of the system and the desire to see it succeed.

Developing the disposition to act in accordance with justified political authority does not necessarily require a Kantian approach to duty, but can also draw on emotional motivating factors. An environment which allows care and justice to coexist, rather than framing them as alternative moral perspectives, allows for both emotional and rational grounds to support the development of this disposition. Given the permissibility of a reasonable pluralism of moral theories in deliberative democracy, a teacher aiming to engage a student's motivation to comply with a particular resolution to a conflict is not compelled to restrict him- or herself to taking one particular approach in the name of theoretical consistency: both emotional and rational inducements to respect an impartial resolution to a conflict can be employed.

These are addressed by two different emphases possible for restorative discussions. Restorative discussions as they typically occur emphasise empathic connection and the restoration of relationships. This model builds primarily (but not exclusively) on emotional motivation and connection. Relationships of care can support these. Restorative discussions that address fair outcome primarily (but not exclusively) engage rational thought about just resolution. Following the argument here, they need not rely solely on the motivation of duty to encourage compliance with what reason suggests is the fair outcome to a conflict.

Both the emotional and rational can support motivation to both moral and just action, and they can be supported by two different approaches to restorative discipline discussions.

An addendum to the above separation of the domains of justice and morality clarifies that while their roles in situations of conflict are distinct, concerns typical to one may inform the other. An approach focused on empathy may contribute to motivation to meet the

requirements of justice, and discussion of fairness may lead to motivation towards the requirements of morality. Standard restorative discussions, and the engagement of empathy, are typically associated with morality yet may inform justice; while restorative discussions of fairness, and the engagement of sympathy, are typically associated with justice yet may inform morality.

In conclusion, given an acceptance of moral pluralism, restorative communities in democracies may adopt, model and draw on the benefits of both the sentimental and the rational to develop students' motivations to act in accordance with justice as well as with morality. The combination of both approaches in this context avoids some of the philosophical problems that would be involved in claiming a combination of the two to form a theory of morality, and the coexistence of care- and justice-based approaches in restorative discussions can help support the meeting of the third goal of good school discipline.

### **The benefit of multiple approaches to moral education**

This thesis concerns education for democratic citizenship, rather than moral education. The proposed additions to restorative discussions are to encourage the development of pupils' understandings of just outcomes, rather than to promote some singular conception of the good. Given that this chapter allows specifically for the value of care and the moral in contributing to pupils' motivations, however, some comparison between the models used here and similar concepts in moral education is worthwhile.

Kohlberg claimed his work to concern moral education, as do care theorists their models. The elements of both used here are not presented as theories of morality, despite their authors' original intentions. Such theories comprise a large proportion of common secular approaches to moral education, which can broadly be divided into those models which follow a cognitive approach such as Kohlberg's, sentimentalist approaches such as those of care, and 'character education' models which draw on virtue ethics. This section will address some of the claims of character education; compare different methods of developing care, justice, and character, and their shortcomings in isolation; and reinforce how an environment of moral pluralism can allow for the address of all of these approaches.

The idea of developing the good man — a man with a list of qualities such as honesty, charity, and whatever else a particular theorist may wish to defend — is as old as the history of philosophy of education. Part of the appeal of character education is that it espouses the development of qualities widely agreed to be desirable, though without necessarily specifying exactly what those qualities entail. People of different moral convictions may agree that educating wise and kind children, for example, is desirable, but without discovering their profound differences about what that involves. A corresponding strength of this nebulousness, however, is that it allows for local cultural interpretation of the nature of a virtue. While Noddings (in Siegel, 2009) is quick to differentiate virtue ethics from a caring approach, she shares with virtue ethicists the conviction that a morally better world would require ‘better people, not better principles’. Care for Noddings is an activity, and relational, rather than a disposition to act in a caring manner. She contrasts care and virtue as follows in *Caring, Empathy, and Moral Education* (Slote, 2009): ‘Care and virtue both put little weight on rules and principles as guides to moral action. Virtue looks to character of moral agents, care on an ethical ideal developed over much time being one who cares.’ The relationship, rather than the virtue, comes first in care ethics.

In practical educational contexts, the virtue-driven ‘character education’ approach was pre-eminent until Hartshorne & May’s (1928) influential studies of its effects. These cast serious doubts on the efficacy of character education approaches at instilling the virtues for which they aimed. Nonetheless, character education still remains a popular conception of moral education due not least to its intuitive appeal, and that the evidence ranged against it is not categorical.

The rational development approach to moral education, in contrast, is that on which the previous chapter focused in detail. Kohlberg’s idea of a developmental scale in the conceptualisation of moral issues follows a similar model to Piaget’s stages of child development and has a fair body of experimental data in support of it, such as the work on Just Community schools covered in the previous chapter. Kohlberg’s model sits congenially with liberal assumptions of rational autonomy, but the foundations of a caring approach would be in a certain degree of meta-ethical tension with a cognitive, rational approach to moral development, as addressed earlier in this chapter. Kohlberg’s model fits well with many principles followed for justice in earlier chapters of this thesis: a focus on the rational



consideration of justice or fairness, an idea of contracts as a foundation for negotiations (though without an implicit assumption that the starting points for such negotiations are fair and equal in practice for each individual), and a commitment to democratic deliberation to produce the best answer a collective of people can propose that is mutually rationally acceptable. Abandoning the claim of such a model to describe the entirety of the moral domain goes some way to allow for its compatibility with other theoretical approaches.

A sentimentalist criticism of evaluating morality primarily on principles of justice does not undermine the value of rationality in the public sphere for fair, impersonal consideration of individual moral perspectives, nor exclude it from any role in discussions of the nature of morality. Okin (1989/1998) argues that the relationships we find ourselves in are not voluntarily chosen, and do not leave us in an impartial position to begin any hypothetical contract negotiations. One can accept this is the case without denying the value of contractual negotiations from an unfair basis. Adopting such a model pragmatically as a teaching tool can demonstrate the values of rational agreement even from a non-idealised starting position, and that practical improvements can be brought about from an imperfect starting point. The lack of attention to moral motivation would, however, be a genuine issue with a purely rationalist approach, and this suggests at least some exposure to the consideration of care or virtues in a school environment which is aiming to provide a broad moral education.

Care theory approaches, in contrast, can be criticised on the grounds that socially desirable emotions are prone to vast cultural difference, to such a degree that there can be disagreement on whether the content of how we choose to care is moral. For example, there is a value difference between how different people might respond to a Jewish circumcision: is it to be taken as a sign of welcoming into a community, or a painful act of mutilation? Which feeling will be primary for a genuine carer? It is not an unreasonable stretch to visualise Noddings attempting to make a 'trolley decision'<sup>88</sup> and pulling back, as she describes, from feelings of care. Caring relationships may impede making a swift but uncomfortable decision in situations like this, and encourage inaction when under particular

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<sup>88</sup> A hypothetical example used in various permutations to explore a utilitarian calculus of moral outcomes. If you can pull a lever, ensuring one person dies, to stop a trolley full of people from racing to certain death, should you do so? (Foot, 1967)

pressure. A utilitarian calculus, (which Noddings would not prioritise), would not necessarily produce a better result, but there is a question over whether a snap selection of the most immediately accessible caring response is the one that best honours caring relationships. Emotional responses remain prone to interference from other influences which affect emotions but are perhaps not morally relevant. 'Ethical caring' may be of some assistance in such a situation for the rational consideration of one's caring obligations when extreme and possibly conflicting emotions make natural caring responses hard to access. This is further support for addressing multiple approaches to moral education in the restorative school, especially when considered alongside the argument that developing moral reasoning in isolation does not value human emotions in as central a manner as a moral theory perhaps ought to do, as illustrated by Williams' vignette at the start of section three of this chapter.

Educating for a caring approach requires a different set of considerations to the models above. Kohlberg's rational approach builds on cognitive development as described in chapter seven, and the methods used by character educators depend on from where one considers a particular virtue to arise. Habituation, if such can be considered education at all, is not the foremost way to educate an individual to display more than the outward signs of a virtue. Given that care is borne out of empathy, engrossment, or a caring orientation to another, education for caring involves developing an individual's relationships, and the feelings which drive such impulses to care.

Hoffman's system of 'inductive discipline' (2000) aims to nurture and develop emotional responses in a way that encourages caring responses. It is designed to get children to think about the effects of their actions on others, both good and bad, and become more consistent actors as a result. This has clear parallels with restorative practices. Noddings (2002a) has created models of moral education based on care ethics, involving modelling, dialogue, practice and confirmation. These aim to develop the capacity for engrossment, similar to Hoffman's induction of empathy. Work on perspective-taking can be both cognitive and affective in whether sympathy or empathy is encouraged; one can imagine both the practical consequences of an action on and the feelings of someone who has been wronged.

Without a basis in rational moral principles, criticisms can be levelled at the encouragement of certain emotional responses such as guilt. It is hard to evaluate the level of guilt a wrongdoer ought to feel for a crime— and, indeed, it seems odd to stipulate a proportionate level of hurt to feel as a victim of wrongdoing. If guilt should correspond solely to the emotional impact of a crime on those affected, then this would imply that crimes against those of dulled emotional response are less reprehensible than against those who feel their effects keenly. Despite emotional responses lacking objective measurements of degree (and consequently an easy way to assess what extent of response comprises fair restitution), they fit well with promoting social restoration after a misdeed rather than punishment; a core value of restorative justice and restorative school discipline. Valuing relationships is an element many would want to include in a model of moral education, and consequently approaches which pay some attention to developing both emotional and rational capabilities seem appropriate for adoption in moral education in schools. The proposed extension to restorative discipline achieves this with the possibility of increased emphasis on rational fairness in restorative conversations as well as on the restoration of good relationships.

Each of the moral education systems addressed here features elements that some citizens value which other systems lack. It is furthermore worth considering a practical variable in the application of such systems — that different audiences may be receptive to different approaches at different times. Some days, a student might want to argue why something that has been done to them is wrong, but in other situations they may prefer to receive a hug. The path of least resistance is not necessarily the most desirable, however: it would be remiss never to stimulate the empathy of a student who seems perpetually disinclined towards it, if it is desirable to develop both emotional and rational capabilities for future adult life.

Nucci's (2009) psychology of moral development in young children merits further mention here to illustrate that while following these different approaches might involve different mental operations, this is likely not to affect children's non-rational moral processing of what the domain of morality actually is. Key distinctions are established well before the secondary age range at which this thesis is directed. Nucci presents data (2009) to illustrate how children learn the moral and the socially conventional to be different, and that

children's psychological sense of morality centres around issues that could be addressed by any of the approaches examined here (caring, helping others, avoiding harm, and being fair). He presents that the basic moral concepts of both religiously- and secularly- brought-up children emerge very early in development, and are the same. Consequently, for the early development of children's psychological conceptualisation of morality, schools can adopt a particular philosophical model of moral education without affecting a child's pre-rational moral intuitions, or undermining faith at that pre-rational level.

Restorative discipline discussions can address moral dilemmas in accordance with any of the models discussed in this chapter. While this thesis does not propose justice thinking to be *moral* education as Kohlberg would describe it, it acknowledges the importance of considering individuals' moral positions when attempting to make just judgements. Questions can be posed that direct a student to different points of reference, such as whether a given outcome is fair (justice thinking), how someone might feel about it (empathy), or what a kind response might be in this situation (appeal to virtue). A school may prefer to promote one approach alone to morality. While that is permissible in accordance with the argument on faith schools in chapter six, attending only to one approach is an incomplete address of the *possible* concerns of morality, and consequently less educative about positions held by others in a morally plural democratic society than also addressing other perspectives.

No single approach needs to be considered pre-eminent in the moral domain for the proposals of this thesis. Individuals may adopt a relational model of caring encounters whilst seeking still to defend rational fairness as a virtue of social institutions. In education specifically it is important to equip people for fluency in both justice and care, as institutions without rational thinkers to steer them may become vulnerable to inconsistent or unjust emotional influences, and relationships without care lack a quality that is highly valued in human interaction.

## **Different approaches to the reconciliation of justice and care in the context of deliberative democracy**

While this chapter has presented care theories and justice as initially seeming to be in direct opposition, there are a number of theorists who allow for a certain degree of combination of these approaches, even within the moral domain. This section investigates how well these different approaches to the theoretical coexistence of justice and care correspond with the combination adopted here, how this fits well with an overarching framework of deliberative democracy, and concludes the chapter as a whole.

Smith would likely have been amenable to a composite approach to justice and care which recognises the value of both the sentimental and the rational. He presented reason as moderating the concerns of (his) sympathy: for Smith, morality should move away from being a purely sentimentalist concern (Smith, 1976). There are compelling arguments that make a purely moral sentimentalist position look unattractive without the addition of rational elements, as both Smith and Hume realised. One major problem is 'social distance': we sympathise less easily not only with the physically distant but also with the socially distant, such as those in extreme poverty or of a different race. This is likely to perpetuate class divisions, and mask the seriousness of distant problems. A contemporary illustration is the parody newspaper headline 'Experts: Ebola Vaccine At Least 50 White People Away' (2014). Smith's concept of the impartial spectator, which gained increasing prominence in the later editions of *The theory of moral sentiments*, can be seen as a clear precursor to Rawls' work on the veil of ignorance, and a further suggestion of the porousness of the divide between the emotional and the rational, the good and the just.

Tronto (1993) searches for areas of overlap from the perspective of care theory. She describes moral motivation as being less of a problem for rational approaches if care is separately held in higher regard, yet sees as more of an issue the ability to make sure one is sufficiently detached to recognise the moral difficulties inherent to caring situations. She wishes to see care embedded in a theory of justice, as she sees a vulnerability to paternalism (or maternalism) and parochialism in care alone. Okin (1989/1998) also seeks a position that allows for both justice and care by arguing that Rawls does not have to assume

that people are mutually disinterested, rather than mutually engaged, and sees the view of human nature inherent to care theory as a remedy for some of the flaws of justice theories.

While these positions differ over which elements of justice and care are considered moral, and which should primarily be an influence or moderating concern upon the other, they fit the type of compromises that emerge from deliberative discussions in a pluralist environment. This is because they look for rational resolution to areas of conflict between different models and compromise in accordance with that value (rather than, for example, stipulating the supremacy of a sentimentalist approach and that rational compromise should be subordinate to the strength of certain feelings).

In opposition to the above theorists, it is equally possible to find arguments in favour of a strict separation between justice and care. Slote (2007) uses his formulation of caring as a foundation for an ethical system grounded in moral sentimentalism, without the need to draw on reasoning-based criteria. His empathy-based ethics accepts the above criticism about social distance, and argues directly against a utilitarian position commonly associated with Singer (2011): for Slote, it is morally acceptable to feel a closer tie to the person suffering in front of you than a person suffering on the other side of the world because of the empathy involved; because of the direct, personal caring relationship. He claims an ethic of care based on empathy answers a different set of philosophical problems to those answered by rationalist approaches. This can still be compatible with the structures of this thesis by considering the role of an educational environment in preparing citizens for future democratic citizenship. Even if the responsibilities of justice are placed on institutions rather than individuals, education still needs to prepare citizens for engagement with them. Rational and impartial adjudication is still necessary when beliefs clash irreconcilably, but for Slote this is external to the concerns that he considers to be moral.

Slote argues that care and a Kantian liberalism are incompatible, and tries to construct how justice arises from care instead. He construes empathy as foundational to morality because our empathic feelings lead us to the judgements we want morality to make. Slote considers caring and justice approaches fundamentally incompatible due their difference in conclusions on individual moral problems. In *The ethics of care and empathy* (2007) he gives the example of a man who wishes to lead a neo-Nazi rally, but would be too embarrassed to

appear in public without his dentures and wig. Without his presence, the rally would not take place. He asks the reader to consider the position of his daughter, who has the opportunity to hide them. While she has deep caring ties with her father, and can permit herself partiality towards those to whom she is emotionally close under an ethic of care, under Slote's construal of a care ethic she can feel a deep empathy with the many people in her community that this rally would offend, and act to hide her father's property. If one were following a justice framework, Slote argues that the principle of free speech — even if hate speech — might be prioritised in this situation. He argues that one of either justice or care has to be given priority because of such situations of incompatibility in their judgements. This conflict is less troubling for an environment of moral pluralism that does not necessarily seek to resolve such conflicting claims: both positions have reasonable justification, and thus this argument can be conducted within the space of democratic debate and public reason. In the terminology of this thesis, Slote's justice here is more a moral position based on the rational concerns of justice; the justice that this thesis defends to be compatible with care is that for adjudicating the conflicts between competing moral positions, as opposed to one that passes judgement on moral questions itself. As argued in the second section of this chapter, a second-order justice is compatible with care theory, whereas a justice in the moral space (as is Slote's target) is not.

For Noddings (2013), 'care...is essentially non-rational'. Her concept of 'engrossment' — similar to Slote's empathy — is central to such an approach: rationality can focus on the problem, but not on the 'cared-for'. While there may be benefit to ethical caring as a substitute for genuine care, it does not substitute satisfactorily for a caring relationship. This may appear initially to be a claim for strict sentimentalism, but ethical care still allows for rational support of such an approach, and consequently raises the question of how complete this separation is: if rationality is used to summon an intellectually-constructed image of oneself as an ideal carer, to some degree it is helping to support this sentimentalist approach to morality. Rational concerns of how one ought to behave are employed to support aspects of moral action. When caring emotions are in conflict, as in some potential trolley scenarios as described above, the employment of the rational to assist in their resolution is not excluded.

Neither Slote nor Noddings dismiss the value of justice. Noddings acknowledges that care without justice is likely to be lacking, yet she sees them as incompatible as they come from different meta-ethical starting points. The particular and compassionate is set against the universal and rational. She writes (in Siegel, 2009) that reasonable questions remain about their combination: which of justice and care is primary? Must they be in different domains? Are they reasonably applied in phases? These questions do not necessarily need resolution in the structures supporting restorative discussions of justice and fairness: they can be left to debate in the deliberative democratic space, and addressed through public reason alongside other concerns of the good and the right in particular communities as desired.

In *Starting at home: Caring and social policy* (Noddings, 2002b), Noddings suggests caring provides the foundation of a sense of justice, as does Okin in commenting on Rawls (1989). This 'sense of justice' may not refer to the same concept as 'justice' does in this thesis. In a strongly sentimentalist approach it may be appropriate to reach for a feeling to support a concept, but that would be a very different construal from justice as the first social virtue, as Rawls described it. Such a sense may practically aid in encouraging adherence to justice's demands, but not in understanding its rational nature. It also may sometimes mislead, in cases of unwitting bias. For the purposes of school community disciplinary structures it is not the motivation for justice that is most important, rather its transparent operation in conflict resolution, and the discussions of what fairness entails that take place as a result. These discussions can address the motivation for employing structures of justice if and when it is helpful to do so.

Noddings further writes that caring can pick up where justice leaves off, in many cases. This need not be seen as a claim that justice as a concept should be privileged over caring: rather, that the enforcement of justice takes one so far, and then can present a significant omission if a social consequence is applied to an individual without the provision of caring support. Without caring human contact, a sanction can feel oppositional and unfair. A greater awareness of the affected relationships makes such sanctions easier to understand, as is encouraged in restorative conversations and restorative conferences in criminal justice. There is scope for both justice and care in the support of such situations. A rational understanding of why one's classroom transgression led to specific redress is helpful in quite a different way to how emotional support and inclusion are helpful. One may be



significantly more valuable than the other in a specific situation, but they are both of value, and both a rational and an emotional engagement with the system can be productive and educational.

This thesis recognises rational grounds for justice and sentimental grounds for care, defends that the boundaries between them are not absolute, and maintains that both are compatible and helpful for restorative discussions of good and right action. Held (1993) and Tronto (1993) both argue that caring can be good in the public sphere as well as the private sphere, and vice-versa for justice. Attention to both would go some way to address the political marginalisation of care as less valuable; a concern of the familial rather than the public domain. The two approaches can inform each other even within the application of their own methods: emotional impact can be a consideration in evaluating the fair response to a transgression, and while 'caring for' needs direct contact, 'caring about' can be guided by principles of justice.

Concepts used in rational justice can be accounted for in care by different means: for example, certain obligations can be understood to arise either from rational justice or from emotional closeness. Where there are such overlaps, the question of theoretical priority does not need to be specified in the construction of practical systems for the classroom. For the school structures proposed, any such reasonable dispute is not a problem, as it is subject to the remit of democratic discussion. This is the type of moral question that is open to debate within a system, as opposed to required universally to ground a system of conflict management in schools. In Gutmann and Thompson's deliberative democracy, after the initial establishment of a context in which discussion can take place, all principles and procedures are provisional. Relationships of caring can be encouraged, and supported through restorative discussions; teachers can be supported in engaging with students with care, and schools can also be transformed into caring communities — all whilst still applying agreed-upon principles of conflict resolution in situations of moral disagreement where there are a number of reasonable positions, and the teacher has no grounds to insist upon his or her own interpretation.

Furthermore, in situations where there is no reasonable alternative to one position in a conflict, it still may not be the best course of action simply to present the only coherent

position for consideration. A major purpose of adopting a deliberative framework for school discipline is that the discussions that take place under its remit are educational; enabling students to come to understand the positions and social compromises adopted, rather than have them stipulated without explanation. In many fields of education students follow simplified models of a system before moving on to more complex, yet more accurate ones. To return to one example, the model of electron shells taught to teenage chemists is often simplified to the point of gross inaccuracy. This approach is defensible due to the important understandings it does impart, and the amount of additional knowledge necessary to understand a more accurate model. Sometimes it can be helpful to explore specious positions. It is not possible to engage young children in terms of Kohlberg's Post-conventional stages rather than first engaging in the terms of his lower levels.

This understanding (and principles subordinate to those of deliberative democracy) further supports that a structure of school discipline which encourages both justice and care is not professing contradictory principles, even if both are claimed to be in the moral domain in opposition to this chapter's previous arguments. Justice can be a virtue of institutions and impartial conflict resolutions, and care can underlie relationships between humans in a community. Justice need not be asserted to be of specifically moral value, rather a system to resolve conflicts in cases of reasonable pluralism. Neither justice nor morality need be asserted to be theoretically prior to the other in order for justice to be effective at this function. Any areas of tension in making such distinctions can be discussed educationally and subject to the judgements of public reason. Only a school system that educates about both justice and care prepares students for two reasonable perspectives that one is likely to encounter in adult life. A school discipline system which lacks either justice or care may be considered wanting by the moral values of many of its participants. A structure for a plural population may benefit from something akin to Rawls' agreement on principles of justice even from incompatible positions: exposure to both justice and care is something on which one would likely find reasonable consensus even if unable to reconcile theoretical differences on the basis therefor.

Restorative discussions can highlight the differences between the requirements of social conventions, institutions, morality, justice, and human desires. They can support the empathy (or capacity for engrossment) of those involved through the methods of Hoffman

and Noddings, and their current structures are well-suited to exploring and strengthening a child's awareness of the emotional impact their actions have on their relationships and those around them. Extended restorative discussions as proposed in this thesis can further support rational understandings of justice, as some conflict resolutions already do by addressing ideas of fairness and exploring how others would perceive an action or event.

Nucci (2009) points out the importance of responding to a disciplinary infraction in the appropriate manner for the domain — in a moral way for a moral transgression, and a conventional way for a conventional one — in order for a teacher's proclamations to be seen as carrying more authority than that of their position of power. After a less-successful restorative discussion, failing to understanding why an outcome is fair may prove a serious obstacle to a child feeling that they are being related to with care. As with so many situations in educational environments, an awareness of multiple approaches allows for a more effective, particular response to be chosen by the professionals involved. A child involved in one conversation might be more receptive to rational approaches, and another to affective motivations.

Deliberative discussion seeks to develop participants' understandings and voices. There is value to educating our youth to be able to engage with the world both from primarily rational and primarily emotional perspectives. For the shaping of public institutions, the ability to consider matters of justice impersonally is important. For caring relations, so is the acknowledgement of our emotions when we relate to others. While the content of morality remains an unresolved question, our educational institutions can prepare our children to continue to evaluate such ideas in adult deliberative discussion, as opposed to emphasising that one way of engaging with the world should be prioritised. Schools can educate about effective debate as well as about possible understandings of morality.

It is valuable both to be able to engage rationally with our own social institutions, and to be good, feeling people, leading rich, connected lives. Through restorative discussions, our school discipline systems can help teach our students both how better to understand justice, and how better to care.

In conclusion, while care theory is often presented in opposition to the work of Kohlberg and others on cognitive moral development, both have valuable elements that can coexist

and be supported by restorative discussions in schools. Such discussions can develop empathy and sympathy; moral intuition and justice cognition; and rational evaluation and natural care. While there initially appears to be some tension between these models, it is largely ameliorated for the purposes of restorative discipline by considering the role of justice in conflict resolution as distinct from morality rather than as a competing claim to that domain. That debate can take place within the structures of deliberative democracy, rather than a position on the matter being necessary for the conversations proposed in this thesis. Both rational and sentimental approaches to morality have weaknesses when adopted in isolation, and it is consequently desirable to address both in the educational environment of restorative discussions. Whether focusing on rational consideration of fairness, or empathic concerns of restoration, these discussions can make some contribution both to moral motivation and to the disposition to act in accordance with justified political authority — the third and final goal of good school discipline.

## Conclusions

This thesis has considered an incoming education policy in New Zealand, and suggested an extension to it that seems to be philosophically sound, practical, and of significant potential educational benefit. This final section recaps and summarises the argument before making some concluding comments on its broader implications, potential for future development, and limitations to its scope.

The first chapter of this thesis examined how the concept of school discipline is widely misunderstood, and explained that it entails three goals: the maintenance of sufficient order in classrooms to enable effective teaching, education about just authority, and the development of pupils' dispositions to act in accordance with just authority. The chapter argued that classroom management is often confused with school discipline, and that classroom management typically only meets the first of these three goals. The thesis built on these three goals to defend how good school discipline contributes to the better preparation of students for participation in adult democratic society.

Chapter two explored the literature around school discipline. It discussed how even specialist books on school discipline typically only address the goal of classroom management, and do not recognise the equal importance of the other two goals identified in chapter one. Many books do not commit to a specific set of goals for school discipline, devolving this responsibility instead to their readers' judgement – judgement that may be ill-founded in a field that is often addressed only practically in initial teacher training, rather than with the philosophical content necessary for making such a decision. An examination of different families of discipline systems revealed that restorative practices are well-positioned to meet the above goals. Restorative practices are currently undergoing pilot implementation as part of the Positive Behaviour for Learning initiative in New Zealand schools. In chapter three, a detailed examination of these policies revealed that considerable attention has been paid to the leading academic theories on how such programmes can successfully be implemented, and what they might achieve. This suggests that the Ministry of Education is implementing well-supported policies in this area with significant potential for success.

Given the above understanding of specific goals for classroom discipline, and an incoming policy that looks well-placed better to meet them, the main proposal of this thesis was tabled: for the extension of restorative practices to better support the meeting of the above goals. Restorative practices attend well to the restoration of damaged relationships. They are also able to encourage consideration of fair outcomes, but this is not a primary focus of restorative discussions. This thesis proposed using the structures of restorative discussions to give considerable attention to stimulating thought about what resolution to an incident might be fair, as well as what might be emotionally reparative. Such discussions, the argument continued, can help to develop rational thought about justice as well as concern for emotional damage.

A certain amount of theoretical justification was needed for this claim, and this was undertaken in chapter four. It addressed the particular conception of the rational that this thesis has adopted, and distinguished it both from other uses of the term and the emotional work restorative conversations already perform. The chapter defended why developing students' rationality is valuable. Besides the widespread consideration of one of the goals of education to be the cultivating of rationality, chapter four argued how rationality is important for the functions of social institutions in a democracy in a way that it is not necessarily important for individuals. The operation and modification of these institutions through the democratic process is an important part of adult democratic citizenship, and consequently greater development of rational capabilities — together with an understanding of how these institutions operate — is better preparation for adult democratic life. The chapter also clarified how this is linked to good school discipline, as follows. Given a plurality of reasonable moral positions in democracies such as New Zealand, neutrality between these sometimes means that fairness in conflict resolution has to rest on principles of justice rather than the principles of a particular moral position. When different moral claims are in irreconcilable conflict, it is political authority that can have justified authority in resolving such a conflict — a position that was defended by respect for the impartial judgement of (rational) fairness when all other grounds for compromise or co-operation fail. The structure established was that justice can help to evaluate potential solutions in situations of conflict between opposing conceptions of the good.

Beyond a respect for rationality and impartiality, the exact conception of justice is as open to debate as particular conceptions of the good. This thesis stipulates neither. What it does describe is how a deliberative conception of democracy can allow for the collective discussion and revision of these concepts, and also of the structures by which they are revised. Democratic discussion was presented as a basis for the resolution to conflicts, and it is to this that greater focus on fairness in restorative discussions can contribute. Greater attention to rational consideration of fairness is better preparation for democratic deliberation in an environment of moral pluralism. This helps develop the better understanding of justified political authority. This is both one of the three components of good school discipline, and better education for democratic adult life.

Chapter five presented a suggested model to frame such discussions of fairness. Social contract theory was argued to be useful as it makes few theoretical presuppositions, is easy to present in its simplest forms, and has scope for considerable development and exploration. It is also moderately intuitive, theoretically contemporary, requires little theoretical expertise to engage with, and can fit the existing patterns of restorative conversations. Different social contract theories provide different ways to explore and develop pupils' understandings of fairness that may appeal to different students at different times. Contractarian approaches appeal to self-interest in finding mutually beneficial agreements, whereas contractual approaches focus more on the consideration of what might be mutually acceptable (given the existing conflict or point of difference). Discussions of fairness can draw on more than one approach to SCT as deliberative democracy allows for a plurality of conceptions of justice, similarly to a plurality of conceptions of morality. The second part of the chapter introduced how the practical consideration of such models was considerably simpler than their philosophical justification. Just as restorative discussions currently ask 'How might you make this situation right?' (i.e. repair the relationship), they can also ask 'What might be a fair way to resolve this on which you can both agree?' The chapter proposed how the training required to conduct such conversations consists of a small addition to the considerably larger undertaking of transforming schools into restorative cultures. Conducted alongside training on other approaches to restorative conversations, it is not a considerable addition, and yet may have significant results.

At this point, the core proposal of the thesis was complete: that the discussion of fairness in restorative conversations is a worthwhile addition to the existing considerations of restorative practice, and that Positive Behaviour for Learning is an opportune policy framework within which to implement it. The argument was made that such discussion of fairness contributes to meeting an often neglected goal of good school discipline which contributes to education for democratic citizenship. Chapters six to eight addressed seemingly strong arguments against this proposition, and in doing so developed the proposal in further detail.

Chapter six addressed how certain conceptions of children and their rights might suggest alternative approaches to allowing children full participation in democratic discussions of justice in the school community. The chapter argued that labels and blunt legal definitions of childhood were unhelpful, and that capabilities and potential should instead be considered. It acknowledged that school policy cannot override national law, but that awareness of such limitations and consideration of their justice can be educational. Will- or interest-based approaches to human rights were shown to be theoretically difficult to apply to children, but it was suggested that considering rights as emergent from the social contract, and subject to democratic discussion, could be supportive of the discussions proposed in this thesis as opposed to being further necessary principles established outside of democratic structures and on different grounds. This chapter also addressed the priority of education for democratic citizenship — including education about secular justice — over the conflicting demands of any individual moral framework. Faith schools are defensible when they attend to the equal preparation of all children for democratic society, but neither they nor a parent's will can override a child's entitlement to development for equal democratic citizenship.

Chapter seven addressed the capability of children to engage in such discussions as proposed here, and did so by reference both to Kohlberg's theories of cognitive moral development and the empirical data gathered concerning his work. While this thesis defends discussions of justice as not promoting specifically moral development (as was Kohlberg's understanding), his work is highly analogous to the discussions proposed here and supports the argument of this thesis in a number of ways. Kohlberg's stage theory provides a means of assessing what individual children might perceive fairness or goodness



to entail, and consequently a simple reference for how to pitch discussions appropriately in the absence of other indicators. The data from his 'Just Communities' suggest that teenagers and teachers are capable of the reasoning proposed in this thesis, that the discussions suggested here may contribute to the development desired, and also that the current environment of PB4L may be a better fit for attempts at such education than the environments he originally created.

The final chapter addressed a challenge to a core principle of the thesis — that a rational approach to justice is desirable. It considered the challenge from care theory as an alternative paradigm, and explored how the two are not necessarily incompatible. When Kohlberg's theories are considered to concern justice — a rational means of adjudicating between opposing claims about fact or values — then they are not necessarily in contradiction with an approach to care that is primarily concerned with the moral domain. Chapter eight clarified how this does not entail privileging justice over care, rather applying them in different situations. This distinction helped to highlight the value of developing both students' care and justice reasoning in preparation for adult life in democratic societies such as New Zealand. Consideration of care as well as justice also helps to address the third goal of good school discipline — developing the disposition to act in accordance with just authority. Rather than being a challenge to the argument of this thesis, care theories can support a plural approach to education about morality and justice, and contribute to restorative discussions better meeting the goals of good school discipline.

While this thesis argues that the case for discussing fairness in restorative practices is strong, it is not without its limitations. Not all democratic states value the public deliberation of policy, either in theory or in practice. While education about justice is still valuable in such situations, the link between the classroom discussions proposed and preparation for the reality of democratic citizenship becomes weaker. There are also possible arguments against the value of concepts central to this thesis, such as good school discipline itself. The importance of fairness in conflict resolution can be denied, with emphasis instead placed on negative freedoms from institutions that would seek to interfere with the outcome of private conflicts.

The practical challenges faced by a proposal such as this are also considerable. This thesis argues for a significant addition to a current school discipline policy. Many different political forces are at play, and numerous parties will have different interests and investments in the current situation. Change takes time, and the proposal made here would require wide circulation, discussion, and acceptance before significant action is likely to be taken, or even recommended.

This suggests an incremental approach to further action and research. A small-scale implementation of the restorative discussions proposed here would provide the opportunity not only to collect data — a valuable complement to the theoretical arguments and thought experiments constructed here — but also to experiment with different ways of structuring these conversations. This would enable the construction of recommended templates for discussions of fairness similar to those already in the training material for restorative practices. There is also scope for the theoretical development of the ideas explored here. It may be possible to mount a robust defence of such discussions of fairness for other models of government or environments that are not fully secular or morally plural. Such societies can still value developing the understanding of fairness, even if certain communities may desire particular moral values to be considered beyond the scope of democratic debate. It is certainly possible to argue that not every aspect of justice and conflict resolution should be open to classroom discussion. Strong paternalist arguments exist that there are benefits to protecting children from the full consideration of certain harsh realities. The extension to restorative practices proposed here might also change the compatibility of such systems with particular theories of learning. Exploring the connections between extended restorative discipline and specific learning theories may prove a worthwhile avenue of research.

The argument presented in this thesis also has broader implications for policy and policy discussions beyond the domain of school discipline. The value of the rational and the contrasting limitations of subjective beliefs and ideologies are not strongly emphasised in parliamentary discussions. Political debate often features the advocacy of specific ideologies rather than the recognition of difference and the search for fair rational compromise. An eventual outcome of developing citizens' awareness of the value of fairness and co-operation over moral difference may be to improve the attention given to such rational

compromise in public debate. The discussion of faith schools in chapter six, and children's rights to an education that prepares them as well as possible for equal participation in adult democratic society, also suggest a review of legislation concerning the acceptable limits of teaching particular approaches to morality. Communities should not be permitted to provide an education that upholds particular moral values at the cost of restricting children's development for full and equal participation in democratic adult life.

This thesis also has implications for classroom practice outside of restorative environments. It argues for a clear conception of what good school discipline involves, and how good classroom management can support this but is inadequate on its own. Transmitting this understanding to teachers in their training and ongoing professional development may encourage attention to social education as well as the maintenance of order even outside of specifically restorative communities.

Restorative practice is an excellent approach to school discipline, and Positive Behaviour for Learning appears a promising policy for supporting its effective implementation. PB4L is theoretically well-grounded, and its adoption provides a significant opportunity for implementing the addition to restorative discussions described here — especially given that the most demanding requirements of the changes involved have already received the financial commitment of the Ministry of Education. There is scope for an extension to restorative discussions which is potentially of significant benefit yet requires only comparatively small changes in practice. Greater consideration of fairness as well as the restoration of relationships could better enable restorative practices to meet the three goals of good school discipline, and consequently provide better education for adult democratic citizenship.

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